

EIGHTY-FIRST DAY

WEDNESDAY, MAY 21, 1997

PROCEEDINGS

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by Senator Truan.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

The Presiding Officer announced that a quorum of the Senate was present.

The Reverend David Schroder, Pastor, Redeemer Lutheran Church, Austin, offered the invocation as follows:

Almighty God, You have kept Your promises. You have promised never to forsake us. You have promised always to uphold us. You have promised to guide us. You have promised to forgive us. You have promised always to hear us. So, heavenly Father, we come to You as we begin the work for this day. This morning we pray for all those we have elected in this Senate to govern us. Give us and them the wisdom to know what to conserve from the past and what should be changed in the present. Lord, God, You kept Your promises to us. Help us always to keep our promises to others. And then, Lord, open our eyes to the larger community in which we share life with all humanity, until we see our place in Your plan. In the name of our Lord. Amen.

On motion of Senator Brown and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, May 21, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**HCR 283**, In memory of Donna Ringoringo.**SB 81**, Relating to the punishment for and the jurisdiction over certain traffic offenses committed by minors.
(Amended)**SB 89**, Relating to a fictitious, forged, or counterfeit driver's license, personal identification certificate, or other instrument; providing penalties.
(Amended)**SB 168**, Relating to the distribution and use of performance incentives for public school principals.
(Committee Substitute/Amended)**SB 197**, Relating to the regulation of alcohol awareness courses by the Texas Commission on Alcohol and Drug Abuse.
(Amended)**SB 298**, Relating to juvenile court detention orders.
(Committee Substitute)**SB 426**, Relating to the revision of the Uniform Interstate Family Support Act to comply with federal law.**SB 506**, Relating to the administration of decedents' estates.
(Amended)**SB 759**, Relating to the appraisal and ad valorem taxation of heavy equipment; providing penalties.**SB 875**, Relating to the applicability of the sex offender registration program to certain defendants, to the procedures used to register and monitor sex offenders, and to the imposition of criminal penalties.
(Amended)**SB 1028**, Relating to clarifying the name of the College of Dentistry component of The Texas A&M University System.**SB 1081**, Relating to the regulation of the conduct of certain nurses.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives**GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate, in their absence, the Lewisville High School Fighting Farmers football team, University Interscholastic League District 5A Champions, the only high school football team to ever be pictured on a box of Cheerios cereal.

The Senate congratulated the Lewisville Fighting Farmers.

SENATE RESOLUTION 750

Senator Armbrister offered the following resolution:

WHEREAS, Black's Barbecue in Lockhart has provided the residents of the city and folks from around the state with delicious food for the past 65 years; and

WHEREAS, The famous dining establishment is believed to be the oldest major barbecue business in Texas that has been continuously owned and operated by the same family; and

WHEREAS, Founded in 1932 by Edgar Black, Sr., and his wife when they moved to Lockhart, the business has been in the capable hands of three generations of the family; and

WHEREAS, Edgar Black, Sr., was a rancher and businessman in Delhi, Texas, in eastern Caldwell County, where he owned a general store; after relocating in Lockhart, he opened Northside Grocery and Black's Barbecue and a tradition was born; the restaurant has become widely known for its mouth-watering beef, sausage, and side dishes; and

WHEREAS, A civic-minded individual who contributed to the development of the city, Mr. Black was elected to serve two terms as Caldwell County Judge before his death in 1962; and

WHEREAS, Edgar Black, Jr., was born in Delhi, Texas, in 1925 and graduated from Texas A&M University in 1949; he served in the United States Navy in World War II, just as his father had during World War I; after his marriage to Norma Jean Nolte in 1948, he entered the family business; Northside Grocery remained a family business from 1932 until 1977; and

WHEREAS, Continuing in the footsteps of his father, Edgar Black, Jr., became involved in civic affairs and served as president of the Kiwanis Club and the Chamber of Commerce; a Little League coach and officer for 10 years, he taught distributive education for six years; and

WHEREAS, One of the founders of the Lockhart Homecoming, which later became the Chisholm Trail Roundup, he was instrumental in the integration of the Lockhart schools, Little League, and the Lockhart State Park; in recognition of his notable contributions to the citizens of the community, Edgar was named Most Worthy Citizen of Caldwell County in 1988; and

WHEREAS, Edgar and his partner in life and business for 49 years, Norma Jean, expanded and developed Northside Grocery and Black's Barbecue into a modern-day success; after producing over a million links, the family's sausage recipe is still used today; during Lyndon B. Johnson's presidency, Black's sausage was served at the Smithsonian Institute in Washington, D.C.; and

WHEREAS, Edgar Black, Jr., and Norma Jean have two sons, Kent and Terry, who, with their wives, Candice and Patti, are involved in the business; Edgar and Norma Jean are the proud grandparents of six grandchildren, Eric, Kara, Christina, Barrett, Michael, and Mark; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby recognize the members of the Black family of Lockhart and commend them for their exceptional contributions to the citizens of Caldwell County; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the distinguished family as an expression of the high regard and appreciation of the Texas Senate.

The resolution was again read.

The resolution was previously adopted on Thursday, May 15, 1997.

GUESTS PRESENTED

Senator Armbrister was recognized and introduced to the Senate the Edgar Black family of Black's Barbecue in Lockhart.

The Senate welcomed its guests.

SENATE RESOLUTION 755

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pleasure in recognizing Rolando Hinojosa-Smith, renowned Chicano author and Professor at The University of Texas at Austin; and

WHEREAS, He was born and raised in Mercedes, Texas; and

WHEREAS, Mr. Hinojosa-Smith is internationally famous as a major author in Chicano literature; one of the novels in his *Klail City Death Trip* series won the acclaimed Casa de las Americas Prize; and

WHEREAS, He was honored at the Rolando Hinojosa-Smith Symposium on February 21, 1997, at The University of Texas at Austin; and

WHEREAS, Scholars and students from several other universities joined The University of Texas at Austin community in honoring the notable author and professor; and

WHEREAS, The Ellen Clayton Garwood Professor in Creative Writing in the English Department at The University of Texas at Austin, Professor Hinojosa-Smith has lectured in the United States, Europe, Mexico, and Cuba; and

WHEREAS, The outstanding author-professor has written poetry, fiction, translations, and critical works; and

WHEREAS, His most recently published book is *The Useless Servants*, and his next book is entitled *Ask a Policeman*; and

WHEREAS, A host of distinguished scholars and linguists organized the symposium to pay tribute to his works; he is considered one of the finest writers of his generation; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby congratulate Rolando Hinojosa-Smith on the recent symposium honoring him and his work; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of the high regard and esteem of the Texas Senate.

LUCIO
BARRIENTOS
GALLEGOS

LUNA
MADLA
TRUAN
ZAFFIRINI

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Lucio, the resolution was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Rolando Hinojosa-Smith; Dr. Robert Berdahl, President of The University of Texas at Austin; Ricardo Romo, Vice-provost; Dr. Alva Ortiz; Professor Jaime Chahin, Southwest Texas State University; and Karen Hinojosa-Sorensen, daughter of Dr. Hinojosa-Smith.

The Senate welcomed its guests.

CAPITOL PHYSICIAN

Senator Gallegos was recognized and presented Dr. Mathis Blackstock of Austin as the "Doctor for the Day."

The Senate welcomed Dr. Blackstock and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE BILL 1630 WITH HOUSE AMENDMENTS

Senator Duncan called **SB 1630** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1630** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to motor vehicle registrations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 502.001(20), Transportation Code, is amended to read as follows:

(20) "Road tractor" means a vehicle designed for the purpose of mowing the right-of-way of a public highway or a motor vehicle designed or used for drawing another vehicle or a load and not constructed to carry:

(A) an independent load; or

(B) a part of the weight of the vehicle and load to be drawn.

SECTION 2. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.009 to read as follows:

Sec. 502.009. RULES AND FORMS. (a) The department may adopt rules to administer this chapter.

(b) The department shall:

(1) prescribe forms determined by the department to be necessary for the administration of this chapter; and

(2) provide each county assessor-collector with an adequate supply of each form necessary for the performance of a duty under this chapter by the assessor-collector.

SECTION 3. Section 502.055, Transportation Code, is amended to read as follows:

Sec. 502.055. DETERMINATION OF WEIGHT. (a) The weight, net weight, or gross weight of a vehicle, as determined by the department, is the correct weight for registration purposes, regardless of any other purported weight of the vehicle.

(b) The department may require an applicant for registration under this chapter to provide the department with evidence of:

(1) the manufacturer's rated carrying capacity for the vehicle;

(2) the nominal tonnage rating of the vehicle;

(3) the gross weight rating of the vehicle; or

(4) any combination of information described in Subdivisions (1)-(3).

SECTION 4. Section 502.161, Transportation Code, is amended to read as follows:

Sec. 502.161. FEE: PASSENGER CAR, ~~[OR]~~ MUNICIPAL BUS, PRIVATE BUS. (a) The fee for a registration year for registration of a passenger car, ~~[or]~~ a municipal bus, or a private bus that weighs 6,000 pounds or less is:

(1) \$40.50 for a vehicle the model year of which is more than six years before the year in which the registration year begins;

(2) \$50.50 for a vehicle the model year of which is more than three years but is six years or less before the year in which the registration year begins; or

(3) \$58.50 for a vehicle the model year of which is three years or less before the year in which the registration year begins.

(b) The fee for a registration year for registration of a passenger car, ~~[or]~~ a municipal bus, or a private bus that weighs more than 6,000 pounds is \$25 plus 60 cents for each 100 pounds.

(c) For registration purposes, the weight of a passenger car, ~~[or]~~ a municipal bus, or a private bus is the weight generally accepted as its correct shipping weight plus 100 pounds.

(d) In this section, "private bus" has the meaning assigned by Section 502.292.

SECTION 5. Section 502.166, Transportation Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The department may issue specially designed license plates for rental trailers and travel trailers that include, as appropriate, the words "rental trailer" or "travel trailer."

(e) In this section:

(1) "Rental fleet" means five or more vehicles that are:

(A) owned by the same owner;

(B) offered for rent or rented without drivers; and

(C) designated by the owner in the manner prescribed by the department as a rental fleet.

(2) "Rental trailer" means a utility trailer that:

(A) has a gross weight of 4,000 pounds or less; and

(B) is part of a rental fleet.

(3) "Travel trailer" means a house trailer-type vehicle or a camper trailer that is:

(A) less than eight feet in width or 40 feet in length, exclusive of any hitch installed on the vehicle; and

(B) designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use and not as a permanent dwelling.

SECTION 6. Section 502.167, Transportation Code, is amended by amending Subsection (i) and adding Subsections (j)-(l) to read as follows:

(i) The department may issue specially designed license plates for token trailers.

(j) A person may register a semitrailer under this section for a registration period of five consecutive years if the person:

(1) owns 50 or more semitrailers at the time of the application;

(2) applies to the department for the five-year registration;

(3) provides proof of the person's eligibility to register the vehicle under this subsection as required by the department; and

(4) pays a fee of \$15, plus any applicable fee under Section 502.172, for each year included in the registration period.

(k) If during the five-year registration period for a vehicle registered under Subsection (j) the amount of a fee imposed under that subsection is increased, the owner of the vehicle is liable to the department for the amount of the increase. If the amount of a fee is decreased, the owner of the vehicle is not entitled to a refund.

(l) In this section:

(1) "Combined gross weight" means the empty weight of the truck-tractor or commercial motor vehicle combined with the empty weight of the heaviest semitrailer used or to be used in combination with the truck-tractor or commercial motor vehicle plus the heaviest net load to be carried on the combination during the registration year.

(2) "Empty weight" means the unladen weight of the truck-tractor or commercial motor vehicle and semitrailer combination fully equipped, as certified by a public weigher or license and weight inspector of the Department of Public Safety.

(3) "Token trailer" means a semitrailer that:

(A) has a gross weight of more than 6,000 pounds; and

(B) is operated in combination with a truck or a truck-tractor that has been issued:

(i) an apportioned license plate;

(ii) a combination license plate; or

(iii) a forestry vehicle license plate.

(4) "Apportioned license plate" means a license plate issued in lieu of truck license plates or combination license plates to a motor carrier in this state who proportionally registers a vehicle owned by the carrier in one or more other states.

(5) "Combination license plate" means a license plate issued for a truck or truck-tractor that:

(A) has a manufacturer's rated carrying capacity of more than one ton; and

(B) is used or intended to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.

SECTION 7. Section 502.252, Transportation Code, is amended to read as follows:

Sec. 502.252. CERTAIN SPECIALIZED PLATES AVAILABLE PERSONALIZED. A person applying for license plates under Section 502.258, 502.259, 502.260, 502.261, 502.262, 502.263, 502.264, 502.265, 502.269, 502.270, 502.271, 502.272, 502.273, ~~[or]~~ 502.274, or 502.292 may:

(1) have a license plate number assigned by the department; or

(2) apply for personalized prestige license plates under Section 502.251.

SECTION 8. Section 502.260(c), Transportation Code, is amended to read as follows:

(c) The department shall issue license plates under this section to a person who:

(1) applies to the department on a form prescribed by the department;

(2) pays an annual fee of:

(A) \$3 for the first set of license plates issued under this section; and

(B) \$15 for each additional set of license plates issued under this section; and

(3) submits proof that the person has been awarded the Purple Heart and is:

(A) an honorably discharged veteran of the United States armed forces; ~~[or]~~

(B) a member of the United States armed forces on active duty; or

(C) a civilian national of the United States who is an employee or a former employee of a branch of the United States armed forces.

SECTION 9. Section 502.266(a), Transportation Code, is amended to read as follows:

(a) The surviving spouse of a person who would be eligible for ~~[was issued]~~ license plates under Section 502.254 is entitled to continue to register one motor vehicle under that section as long as the spouse remains unmarried.

SECTION 10. Subchapter F, Chapter 502, Transportation Code, is amended by adding Sections 502.292-502.295 to read as follows:

Sec. 502.292. MUNICIPAL AND PRIVATE BUSES. (a) The department shall issue specially designed license plates for municipal buses and private buses.

(b) License plates issued under this section must include the words "city bus" or "private bus," as appropriate.

(c) The department shall issue license plates under this section to a person who:

(1) applies on a form prescribed by the department to the county assessor-collector of the county in which the person resides; and

(2) pays the fee prescribed by Section 502.161.

(d) Registration under this section is valid for one registration year.

(e) In this section, "private bus" means a bus that:

(1) is not operated for hire; and

(2) is not classified as a municipal bus or a motor bus.

Sec. 502.293. STATE OFFICIALS. (a) The department shall issue specially designed license plates for a passenger car or light truck owned by a state official.

(b) License plates issued under this section must include the words "state official."

(c) The department shall issue license plates under this section to a person who:

(1) applies to the department on a form prescribed by the department;

(2) furnishes evidence acceptable to the department that the person is eligible to register the vehicle under this section; and

(3) pays the fee prescribed by Section 502.161.

(d) A person may be issued three sets of license plates under this section.

(e) A registration under this section is for a registration period of 12 consecutive months or until March 31, whichever period is shorter.

(f) If the owner of a vehicle registered under this section disposes of the vehicle during the registration period, the owner shall surrender the special license plates to the department.

(g) In this section, "state official" means:

(1) a member of the legislature;

(2) the governor;

(3) the lieutenant governor;

(4) a justice of the Supreme Court of Texas;

(5) a judge of the Court of Criminal Appeals;

(6) the attorney general;

(7) the commissioner of the General Land Office;

(8) the comptroller;

(9) a member of the Railroad Commission of Texas;

(10) the commissioner of agriculture;

(11) the secretary of state; or

(12) a member of the State Board of Education.

Sec. 502.294. MEMBERS OF CONGRESS. (a) The department shall issue specially designed license plates for a passenger car or light truck owned by a member of congress.

(b) License plates issued under this section must include the words "U.S. Congress."

(c) The department shall issue license plates under this section to a person who:

(1) applies to the department on a form prescribed by the department;

(2) furnishes evidence acceptable to the department that the person is eligible to register the vehicle under this section; and

(3) pays the fee prescribed by Section 502.161.

(d) A person may be issued three sets of license plates under this section.

(e) A registration under this section is for a registration period of 12 consecutive months or until March 31, whichever period is shorter.

(f) If the owner of a vehicle registered under this section disposes of the vehicle during the registration period, the owner shall surrender the special license plates to the department.

Sec. 502.295. STATE AND FEDERAL JUDGES. (a) The department shall issue specially designed license plates for a passenger car or light truck owned by a state or federal judge or a retired state or federal judge.

(b) License plates issued under this section must include the words "state judge" or "U.S. judge," as appropriate.

(c) The department shall issue license plates under this section to a person who:

(1) applies to the department on a form prescribed by the department;

(2) furnishes evidence acceptable to the department that the person is eligible to register the vehicle under this section; and

(3) pays the fee prescribed by Section 502.161.

(d) A person may be issued three sets of license plates under this section.

(e) A registration under this section is for a registration period of 12 consecutive months or until March 31, whichever period is shorter.

(f) If the owner of a vehicle registered under this section disposes of the vehicle during the registration period, the owner shall surrender the special license plates to the department.

(g) In this section:

(1) "Federal judge" means:

(A) a judge of the Fifth Circuit Court of Appeals;

(B) a judge or a magistrate of a United States district court; or

(C) a judge of a United States bankruptcy court.

(2) "State judge" means:

(A) a judge of a court of appeals;

(B) a district court judge;

(C) a presiding judge of an administrative judicial district; or

(D) a statutory county court judge.

SECTION 11. Section 502.352, Transportation Code, is amended by amending Subsections (a), (c), (d), and (f), and adding Subsection (i) to read as follows:

(a) The department may issue a temporary permit for a commercial motor vehicle, trailer, semitrailer, or motor bus that:

(1) is owned by a resident of the United States, ~~[or] Canada, or the United Mexican States;~~

(2) is subject to registration in this state; and

(3) is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or province in which the vehicle is registered.

(c) A person may obtain a permit under this section by:

(1) applying to the county assessor-collector, ~~[or] the department, or the department's wire service agent, if the department has a wire service agent; [and]~~

(2) paying a fee of \$25 for a 72-hour permit or \$50 for a 144-hour permit:

(A) [;] in cash;

(B) [or] by postal money order;

(C) by [or] certified check;

(D) by wire transfer through the department's wire service agent, if any;

(E) by an escrow account; or

(F) where the service is provided, by a credit card issued by [or]:

(i) a financial institution chartered by a state or the United States; or

(ii) a nationally recognized credit organization approved by the Texas Transportation Commission;

(3) paying a discount or service charge for a credit card payment or escrow account, in addition to the fee; and

(4) furnishing to the county assessor-collector, the department, or the department's wire service agent, evidence of financial responsibility for the vehicle that complies with Sections 501.153(c) and 601.168(a) and is written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state

~~[(A) \$25 for a 72-hour permit; or~~

~~[(B) \$50 for a 144-hour permit].~~

(d) A county assessor-collector shall report and send a fee collected under this section in the manner provided by Sections 502.102 and 502.105. Each week, a wire service agent shall send to the department a report of all permits issued by the agent during the previous week. The department by rule shall prescribe the form and content of a report required by this subsection.

(f) A vehicle issued a permit under this section is subject to Subchapters B and F, Chapter 548, unless the vehicle:

(1) is registered in another state of the United States, [or] in a province of Canada, or in a state of the United Mexican States; or

(2) is mobile drilling or servicing equipment used in the production of gas, crude petroleum, or oil, including a mobile crane or hoisting equipment, mobile lift equipment, forklift, or tug.

(i) The department may establish one or more escrow accounts in the state highway fund for the prepayment of a 72-hour permit or a 144-hour permit. Any fee established by the department for the administration of this subsection shall be administered as required by an agreement entered into by the department.

SECTION 12. This Act takes effect September 1, 1997.

SECTION 13. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1

Amend CSSB 1630, Section 5, page 4, line 5, after "dwelling" and before "." by inserting the following language:

"; provided that "travel trailer" shall not include utility trailers, enclosed trailers, or other trailers not having human habitation as its primary purpose."

The amendments were read.

On motion of Senator Duncan, the Senate concurred in the House amendments to **SB 1630** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 2964

Senator Nixon called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2964** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2964** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Nixon, Chair; Cain, Galloway, Gallegos, and Nelson.

SENATE BILL 365 WITH HOUSE AMENDMENTS

Senator Armbrister called **SB 365** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 365** in Section 2 of the bill by striking the proposed Subsections (f) and (g) (House Committee Report, page 3, lines 8 through 25 and page 4, lines 1 through 9) and substituting:

(f) To be eligible to take office or serve as a voting or nonvoting member of the board a person appointed to or scheduled to serve as an ex officio member of the board must complete at least one course of a training program that complies with this section. A voting or nonvoting board member must complete a training program that complies with subsection (g) not later than the 180th day after the date on which the person takes office or begins serving as a member of the board.

(g) The training program must provide information to the person regarding:

(1) the enabling legislation that created the department and its policymaking body to which the person is appointed to serve;

(2) the programs operated by the department;

(3) the role and functions of the department;

(4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;

- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of the:
 - (A) open meetings law, Chapter 551, Government Code;
 - (B) open records law, Chapter 552, Government Code; and
 - (C) administrative procedure law, Chapter 2001, Government Code;
- (8) the requirements of the conflict of interests laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.
- (h) A person appointed to the board is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

Floor Amendment No. 2

Amend the House Committee Report for **SB 365** as follows:

- (1) On page 8, line 18, after the word "state" strike "guidelines" and substitute "laws, rules and regulations and instructions promulgated directly from those laws, rules and regulations".
- (2) On page 8, line 21, after the word "state" strike "guidelines" and substitute "laws, rules, and regulations and instructions promulgated directly from those laws, rules and regulations".

Floor Amendment No. 3

Amend **SB 365** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION __. Subchapter F, Chapter 2054, Government Code, is amended by adding Section 2054.120 to read as follows:

Sec. 2054.120. ELECTRONIC MAIL ADDRESS. (a) A state agency shall establish an Internet electronic mail address for the agency. The state agency may publish the electronic mail address and use electronic mail to communicate with the public. The state agency may consult with the Department of Information Resources to establish its electronic mail address.

(b) In this section, "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

The amendments were read.

On motion of Senator Armbrister, the Senate concurred in the House amendments to **SB 365** by a viva voce vote.

SENATE BILL 1865 WITH HOUSE AMENDMENTS

Senator Armbrister called **SB 1865** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1865** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the administration, management, operation, and authority of water districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 36.014, Water Code, is amended to read as follows:

Sec. 36.014. NOTICE AND HEARING ON DISTRICT CREATION. (a)

If a petition is filed under Section 36.013, the commission shall give notice of an application as required by Section 49.011(a) and may conduct a hearing on the application if the commission determines that a hearing is necessary under Section 49.011 [The notice of hearing on a petition must include a statement of the nature and purpose of the proposed district and the date, time, and place of hearing].

~~(b) [The notice must be posted on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located.~~

~~[(c) Notice of the hearing shall be published in a newspaper with general circulation in the county or counties in which the proposed district is to be located. Notice must be published not later than the 30th day before the date of the hearing.~~

~~[(d)] If the petition contains a request to create a management area in all or part of the proposed district, the notice must also be given in accordance with the requirements in Section 35.006 for the designation of management areas.~~

SECTION 2. Subchapter B, Chapter 49, Water Code, is amended by adding Section 49.011 to read as follows:

Sec. 49.011. NOTICE APPLICABLE TO CREATION OF A DISTRICT BY THE COMMISSION. (a) On receipt by the commission of all required documentation associated with an application for creation of a district by the commission under Chapter 36, 50, 51, 54, 55, 58, 65, or 66, the commission shall issue a notice indicating that the application is administratively complete.

(b) The commission by rule shall establish a procedure for public notice and hearing of applications. The rules must require an applicant to publish the notice issued by the commission under Subsection (a) once a week for two consecutive weeks in a newspaper regularly published or circulated in the county where the district is proposed to be located not later than the 30th day before the date on which the commission may act on the application.

(c) The commission may act on an application without holding a public hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following the final publication of notice under Subsection (b).

(d) If the commission determines that a public hearing is necessary, the commission shall advise all parties of the time and place of the hearing. The commission is not required to provide public notice of a hearing under this section.

SECTION 3. Section 49.057(e), Water Code, is amended to read as follows:

(c) The board shall require an officer, employee, or consultant, including a bookkeeper, financial advisor, or system operator, who routinely collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, in an amount determined by the board to be sufficient to safeguard the district. The board may require a consultant who does not routinely collect, pay, or handle funds of the district to furnish a bond. The bond shall be conditioned on the faithful performance of that person's duties and on accounting for all funds and property of the district. Such bond shall be signed or endorsed by a surety company authorized to do business in the state.

SECTION 4. Section 49.103, Water Code, is amended by amending Subsections (e) and (f) and adding Subsection (g) to read as follows:

(e) Section 49.002 notwithstanding, in all areas of conflict the provisions of Subsections (a) and [Subsection] (b) shall take precedence over all prior statutory enactments.

(f) This section does not apply to:

(1) any special law district or authority that is not required by the law creating the district or authority to elect its directors by the public; or

(2) a special utility district operating under Chapter 65.

(g) A district may, if required under this section to change the terms of office of directors to four-year terms or to change the date on which the district holds a director election, extend the terms of office of directors serving the district on the effective date of H.B. No. 2236, Acts of the 75th Legislature, Regular Session, 1997, to continue the terms until the next appropriate election date in an even-numbered year. A district that is required under this section to change the terms of office of directors to staggered terms may require directors of the district to draw lots to achieve staggered terms.

SECTION 5. Section 49.106, Water Code, is amended by adding Subsection (d) to read as follows:

(d) A bond election may be called as a result of an agreement to annex additional territory into the district.

SECTION 6. Section 49.108, Water Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) A district may make payments under a contract from taxes other than operation and maintenance taxes after the provisions of the contract have been approved by a majority of the qualified voters [electors] voting at an election held for that purpose. A contract approved by the qualified voters of a district may contain a provision stating that the contract may be modified or amended by the board without voter approval.

(e) A district that is required under Section 49.181 to obtain approval by the commission of the district's issuance of bonds must obtain approval by the executive director before the district enters into an obligation under this

section to collect tax for debt that exceeds three years. This subsection does not apply to contract taxes that are levied to pay for a district's share of bonds that have been issued by another district and approved by the commission.

SECTION 7. Section 49.153, Water Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) Except as provided by Subsection (e), a [★] district may not execute a note for a term longer than three years unless the commission issues an order approving the note.

(e) Subsection (c) does not apply to:

(1) a note issued to and approved by the:

(A) Farmers Home Administration;

(B) United States Department of Agriculture; or

(C) Texas Water Development Board; or

(2) a district described by Section 49.181(h).

SECTION 8. Section 49.181(h), Water Code, is amended to read as follows:

(h) This section does not apply to a district if:

(1) the district's boundaries include one entire county;

(2) the district was created by a special Act of the legislature and:

(A) the district is located entirely within one county;

(B) entirely within one or more home-rule municipalities;

(C) the total taxable value of the real property and improvements to the real property zoned by one or more home-rule municipalities for residential purposes and located within the district does not exceed 25 percent of the total taxable value of all taxable property in the district, as shown by the most recent certified appraisal tax roll prepared by the appraisal district for the county; and

(D) the district was not required by law to obtain commission approval of its bonds before the effective date of this section;

(3) the district is a special water authority; or

(4) the district is governed by a board of directors appointed in whole or in part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and does not provide, or propose to provide, water, [and] sewer, drainage, reclamation, or flood control services to residential retail customers as its principal function.

SECTION 9. Subchapter F, Chapter 49, Water Code, is amended by adding Section 49.186 to read as follows:

Sec. 49.186. AUTHORIZED INVESTMENTS; SECURITY FOR FUNDS.

(a) All bonds, notes, and other obligations issued by a district shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees, and for all interest and sinking funds and other public funds of the state, and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic.

(b) A district's bonds, notes, and other obligations are eligible and lawful security for all deposits of public funds of the state, and all agencies,

subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, notes, and other obligations when accompanied by any unmatured interest coupons attached to them.

SECTION 10. Section 49.198(a), Water Code, is amended to read as follows:

(a) A district [~~that is not collecting taxes~~] may elect to file annual financial reports with the executive director in lieu of the district's compliance with Section 49.191 provided:

(1) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(2) the district did not have gross receipts from operations, loans, ~~taxes~~, or contributions in excess of \$100,000 during the fiscal period; and

(3) the district's cash and temporary investments were not in excess of \$100,000 at any time during the fiscal period.

SECTION 11. Section 49.211, Water Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A district that is authorized by law to engage in drainage or flood control activities may adopt:

(1) a master drainage plan, including rules relating to the plan and design criteria for drainage channels, facilities, and flood control improvements;

(2) rules for construction activity to be conducted within the district that:

(A) reasonably relate to providing adequate drainage or flood control; and

(B) use generally accepted engineering criteria; and

(3) reasonable procedures to enforce rules adopted by the district under this subsection.

(d) If a district adopts a master drainage plan under Subsection (c)(1), the district may adopt rules relating to review and approval of proposed drainage plans submitted by property developers. A district that reviews a proposed drainage plan under rules adopted under this subsection shall, if the district fails to approve the proposed plan, prepare a written report that identifies the areas that are not in compliance with the district's master drainage plan or rules adopted under Subsection (c).

SECTION 12. Section 49.212(d), Water Code, is amended to read as follows:

(d) Notwithstanding any provision of law to the contrary, a district that charges a fee that is an impact fee as described in Section 395.001(4), Local Government Code, must comply with Chapter 395, Local Government Code. A charge or fee by a district for construction, installation, or inspection of a tap or connection to district water, sanitary sewer, or drainage facilities, including all necessary service lines and meters, or for wholesale facilities that serve such water, sanitary sewer, or drainage facilities that (i) does not exceed three times the actual and reasonable costs to the district for such tap or connection [~~work~~] or (ii) if made to a nontaxable entity for retail or

wholesale service, does not exceed the actual costs to the district for such work and for all facilities that are necessary to provide district services to such entity and that are financed or are to be financed in whole or in part by tax-supported or revenue bonds of the district, shall not be deemed ~~[or considered]~~ to be an impact fee under Chapter 395, Local Government Code.

SECTION 13. Section 49.218(a), Water Code, is amended to read as follows:

(a) A district or a water supply corporation may acquire land, an interest in land, materials, waste grounds, easements, rights-of-way, equipment, contract or permit rights or interests, and other property, real or personal, considered necessary for the purpose of accomplishing any one or more of the district's or water supply corporation's purposes provided in this code or in any other law.

SECTION 14. Sections 49.226(a) and (b), Water Code, are amended to read as follows:

(a) Any personal property valued at more than \$300 or any land or[;] interest in land~~[; or personal property]~~ owned by the district which is found by the board to be surplus and is not needed by the district may be sold under order of the board either by public or private sale, or the land, interest in land, or personal property may be exchanged for other land, interest in land, or personal property needed by the district. Except as provided in Subsection (b), land, interest in land, or personal property must be exchanged for like fair market value, which value may be determined by the district.

(b) Any property dedicated to or acquired by the district without expending district funds may be abandoned or released to the original grantor, the grantor's heirs, assigns, executors, or successors upon terms and conditions deemed necessary or advantageous to the district and without receiving compensation for such abandonment or release. District property may also be abandoned, released, exchanged, or transferred to another district, municipality, county, countywide agency, or authority upon terms and conditions deemed necessary or advantageous to the district. Narrow strips of property resulting from boundary or surveying conflicts or similar causes, or from insubstantial encroachments by abutting property owners, or property of larger configuration that has been subject to encroachments by abutting property owners for more than 25 years may be abandoned, released, exchanged, or transferred to such abutting owners upon terms and conditions deemed necessary or advantageous to the district. Chapter 272, Local Government Code, shall not apply to this subsection.

SECTION 15. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2261 to read as follows:

Sec. 49.2261. PURCHASE, SALE, OR OTHER EXCHANGE OF WATER OR WATER RIGHTS. Notwithstanding any other law, the district may:

(1) purchase, acquire, sell, transfer, lease, or otherwise exchange water or water rights under an agreement between the district and a person or entity that contains terms that are considered advantageous to the district; and

(2) employ agents, consultants, brokers, professionals, or other persons that the board determines are necessary or appropriate to conduct a transaction described by Subdivision (1).

SECTION 16. Sections 49.231(e) and (g), Water Code, are amended to read as follows:

(e) ~~[The commission shall hold a hearing on an application submitted under Subsection (c).]~~ Notice of an application submitted under Subsection (c) [the hearing] shall be published by the district in a form provided by the commission. The district shall publish notice in a newspaper of general circulation in the county or counties in which the district is located once a week for two consecutive weeks. The district shall also send notice of the application [The first publication must occur not later than the 30th day before the date of the hearing. The district shall send, not later than the 30th day before the date of the hearing, notice of the hearing] by certified mail, return receipt requested, to each owner of undeveloped property in the district. On the date the application is filed, the district's tax assessor and collector shall certify to the district the names of the persons owning undeveloped land in the district as reflected by the most recent certified tax roll of the district. Notice of the application [hearing] must be sent by certified mail, return receipt requested, to each mortgagee of record that has submitted a written request to be informed of any application for standby fees [hearings]. [To be effective, the written request must be received by the district not later than the 60th day before the date of the hearing.] The written request for notice must include the name and address of the mortgagee, the name of the property owner in the district, and a brief property description. The commission may act on an application without conducting a hearing if a public hearing is not requested by the commission, the executive director, or an affected person in the manner prescribed by commission rule during the 30 days following publication of the notice or receipt of mail containing the notice under this subsection.

(g) ~~The [After a hearing on an application under Subsection (c), the]~~ commission shall issue an order approving or disapproving the application. The commission shall retain a copy of the order and send a copy of the order to the district.

SECTION 17. Section 49.232, Water Code, is amended to read as follows:

Sec. 49.232. LABORATORY AND ENVIRONMENTAL SERVICES. A district may contract with any person, within or without the boundaries of the district, to provide or receive laboratory or environmental services related to environmental, health, or drinking water testing.

SECTION 18. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.233 to read as follows:

Sec. 49.233. NONLIABILITY FOR WATER SAFETY. A district is not liable to a person for an injury arising from the placement, failure to place, absence, condition, or malfunction of a buoy, beacon, sign, or warning device on or near water and within the district.

SECTION 19. The heading to Subchapter I, Chapter 49, Water Code, is amended to read as follows:

SUBCHAPTER I. CONSTRUCTION, EQUIPMENT, MATERIALS,
AND MACHINERY CONTRACTS

SECTION 20. Section 49.273, Water Code, is amended to read as follows:

Sec. 49.273. [~~Construction~~] CONTRACT AWARD. (a) The board shall contract for construction and repair and renovation of district facilities and for the purchase of equipment, materials, machinery, and all things that constitute or will constitute the plant, works, facilities, or improvements of the district in accordance with this section. The bidding documents, plans, specifications, and other data needed to bid on the project must be available at the time of the first advertisement and the advertisement shall state the location at which these documents may be reviewed.

(b) A [~~construction~~] contract may cover all the work to be provided ~~for~~ [by] the district or the various elements of the work may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the work will be completed [~~constructed~~] in stages over a period of years.

(c) A [~~construction~~] contract may provide for the payment of a total sum that is the completed cost of the work or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers, or a contract may be let and awarded in any other form or composite of forms and to any responsible person or persons that, in the board's judgment, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plants, improvements, facilities, works, equipment, and appliances.

(d) For [~~construction~~] contracts for \$25,000 or more, the board shall advertise the letting of the contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers circulated in each county in which part of the district is located. If one newspaper meets both of these requirements, publication in such newspaper is sufficient. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. The notice shall be published once a week for three consecutive weeks before the date that the bids are opened, and the first publication shall be not later than the 21st day before the date of the opening of the sealed bids.

(e) For [~~construction~~] contracts for \$15,000 or more but less than \$25,000, the board shall solicit written competitive bids on uniform written specifications from at least three bidders.

(f) For [~~construction~~] contracts of less than \$15,000, the board is not required to advertise or seek competitive bids.

(g) The board may not subdivide work to avoid the advertising requirements specified in this section.

(h) The board may not accept bids that include substituted items unless the substituted items were included in the original bid proposal and all bidders had the opportunity to bid on the substituted items or unless notice is given to all bidders at a mandatory pre-bid conference.

(i) Change orders to contracts may be issued only as a result of unanticipated conditions encountered during construction, repair, or renovation or changes in regulatory criteria or to facilitate project coordination with other political entities.

(j) The board is not required to advertise or seek competitive bids for the repair of district facilities by the district's operator if the cost of the repair is

less than or equal to the cost of complying with the advertising requirements of this section ~~[The provisions of this subchapter do not apply to contracts for personal or professional services or for a utility service operator or to contracts made by a district engaged in the distribution and sale of electric energy to the public.~~

~~[(k) The provisions of this subchapter do not apply to high technology procurements. The provisions of Sections 252.021(a) and 252.042, Local Government Code, shall apply to high technology procurements].~~

SECTION 21. Subchapter I, Chapter 49, Water Code, is amended by adding Section 49.278 to read as follows:

Sec. 49.278. NONAPPLICABILITY. (a) This subchapter does not apply to:

(1) equipment, materials, or machinery purchased by the district at an auction that is open to the public;

(2) contracts for personal or professional services or for a utility service operator;

(3) contracts made by a district engaged in the distribution and sale of electric energy to the public; or

(4) high technology procurements.

(b) Sections 252.021(a) and 252.042, Local Government Code, apply to high technology procurements.

SECTION 22. Section 49.301, Water Code, is amended by amending Subsection (b) and adding Subsection (g) to read as follows:

(b) If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxes that have been voted but are unissued, the board ~~shall~~ may require the petitioner or petitioners to assume their share of the outstanding bonds, notes, or other obligations and the voted but unissued tax bonds of the district and authorize the board to levy a tax on their property in each year while any of the bonds, notes, or other obligations payable in whole or in part from taxation are outstanding to pay their share of the indebtedness.

(g) An order issued by the board under this section is not required to include all of the land described in the petition if the board determines that a change in the description is necessary or desirable.

SECTION 23. Section 49.302(f), Water Code, is amended to read as follows:

(f) A copy of the order annexing land to the district, ~~[signed by a majority of the members of the board and]~~ attested by the secretary of the board, shall be filed and recorded in the deed records of the county or counties in which the district is located if the land is finally annexed to the district.

SECTION 24. Section 49.351, Water Code, is amended by adding Subsection (k) to read as follows:

(k) In this section, "fire-fighting activities" means all of the customary and usual activities of a fire department, including fire suppression, fire prevention, training, safety education, maintenance, communications, medical emergency services, photography, and administration.

SECTION 25. Section 49.455(b), Water Code, is amended to read as follows:

(b) The information form filed by a district under this section shall include:

- (1) the name of the district;
- (2) the complete and accurate legal description of the boundaries of the district;
- (3) the most recent rate of district taxes on property located in the district;
- (4) the total amount of bonds that have been approved by the voters and which may be issued by the district (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity);
- (5) the aggregate initial principal amount of all bonds of the district payable in whole or part from taxes (excluding refunding bonds and any bonds or portion of bonds payable solely from revenues received or expected to be received pursuant to a contract with a governmental entity) that have been previously issued ~~[and remain outstanding]~~;
- (6) whether a standby fee is imposed by the district and, if so, the amount of the standby fee;
- (7) the date on which the election to confirm the creation of the district was held if such was required;
- (8) a statement of the functions performed or to be performed by the district; and
- (9) the particular form of Notice to Purchasers required by Section 49.452 to be furnished by a seller to a purchaser of real property in that district completed by the district with all information required to be furnished by the district.

If a district has not yet levied taxes, a statement to such effect together with the district's most recent projected rate of debt service tax shall be substituted for Subdivisions (3) and (4).

SECTION 26. Section 51.028, Water Code, is amended by amending the heading and Subsection (a) to read as follows:

Sec. 51.028. MULTI-COUNTY DISTRICT: NOTICE ~~AND~~ [OF] HEARING. (a) When a petition is filed, the commission shall give notice of an application [a hearing] in the manner provided in Section 49.011 and may conduct a hearing on the application if the commission determines that a hearing is necessary under that section [51.018 of this code].

SECTION 27. Subchapter B, Chapter 53, Water Code, is amended by adding Section 53.020 to read as follows:

Sec. 53.020. TEMPORARY SUPERVISORS: QUALIFICATIONS. (a) If the commissioners court grants a petition presented under Section 53.013, the court shall appoint five temporary supervisors to serve on the board of the district until permanent supervisors are elected.

(b) A temporary supervisor appointed under Subsection (a) shall execute a bond as required under Section 49.055 and take the oath of office.

(c) After the commissioners court appoints five temporary supervisors under Subsection (a), the temporary supervisors shall meet and organize.

SECTION 28. Section 54.018, Water Code, is amended to read as follows:

Sec. 54.018. NOTICE AND HEARING ON DISTRICT CREATION [ESTABLISHING A DATE OF HEARING]. If a petition is filed under Section 54.014, the commission shall give notice of an application as required by Section 49.011 and may conduct a hearing on the application if the commission determines that a hearing is necessary under Section 49.011 [On the filing of a petition, the commission or someone authorized by the commission, shall fix a date, time, and place at which the petition shall be heard and shall issue notice of the date, time, and place of hearing. The notice shall inform all persons of their right to appear and present evidence and testify for or against the allegations in the petition, the form of the petition, the necessity and feasibility of the district's project, and the benefits to accrue].

SECTION 29. Section 54.020(a), Water Code, is amended to read as follows:

(a) If the commission determines that a hearing is necessary under Section 49.011, the commission shall conduct a hearing and accept evidence [At the hearing, the commission shall examine the petition to ascertain its sufficiency, and any person interested may appear before the commission in person or by attorney and offer testimony] on the sufficiency of the petition and whether the project is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

SECTION 30. Sections 54.021(a) and (e), Water Code, are amended to read as follows:

(a) If the commission finds [After the hearing of the petition if it is found] that the petition conforms to the requirements of Section 54.015 [of this code] and that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district, the commission shall so find by its order and grant the petition.

(e) A copy of the order of the commission granting or denying a petition shall be mailed to each city having extraterritorial jurisdiction in the county or counties in which the district is located who requested a hearing under Section 49.011 [notice of hearings as provided in Section 54.019 of this code].

SECTION 31. Section 54.102, Water Code, is amended to read as follows:

Sec. 54.102. QUALIFICATIONS FOR DIRECTORS. To be qualified to serve as a director, a person shall be at least 18 ~~[21]~~ years old, a resident citizen of the State of Texas, and either own land subject to taxation in the district or be a qualified voter within the district.

SECTION 32. Section 54.774(b), Water Code, is amended to read as follows:

(b) Except as provided in Subsection (a) ~~[of this section]~~, a district may acquire recreational facilities and obtain funds to develop and maintain them in the same manner as authorized elsewhere in this code for the acquisition, development, and maintenance of other facilities of the district. Without limiting the foregoing, a district may charge fees directly to the users of recreational facilities and to water and wastewater customers of the district.

regardless of whether the customers are located within or outside the boundaries of the district, to pay for all or part of the cost of their development and maintenance. For purposes of enforcing payment of an unpaid fee charged under this subsection, the district may:

- (1) seek legal restitution of the unpaid fee; and
- (2) refuse use of a recreational facility to the person who owes the unpaid fee, except that the district may not discontinue use of other facilities or services.

SECTION 33. Section 54.802(b), Water Code, is amended to read as follows:

(b) The board shall adopt a proposed plan for improvements in the defined area or to serve the designated property in the manner provided by Section 49.106 ~~[Sections 54.506-54.507 of this code]~~.

SECTION 34. Section 54.806(a), Water Code, is amended to read as follows:

(a) Before the adopted plans may become effective, they must be approved by the voters in the defined area or within the boundaries of the designated property. The election shall be conducted as provided by Section 49.106 ~~[this chapter]~~ for an election to authorize the issuance of bonds.

SECTION 35. Section 55.040, Water Code, is amended to read as follows:

Sec. 55.040. MULTI-COUNTY DISTRICT: PETITION. Creation of a district composed of land in two or more counties may be initiated by presenting a petition to the commission signed by the owners of more than half the land in the proposed district or by 50 qualified property taxpaying electors of the territory of the proposed district. The petition shall describe the boundaries of the proposed district and ~~[;]~~ request an order on ~~[a hearing to determine]~~ the advisability of creating the district ~~[;]~~ and ~~[request]~~ an order for an election.

SECTION 36. Section 55.042, Water Code, is amended to read as follows:

Sec. 55.042. MULTI-COUNTY DISTRICT: HEARING. If the commission determines that a hearing is necessary under Section 49.011, the commission shall conduct a hearing and ~~[At the hearing,]~~ any person whose land would be affected by creation of the district may appear and support or oppose creation of the proposed district, and may offer competent testimony to show that the district would or would not serve a beneficial purpose, be practicable, or accomplish the purposes intended.

SECTION 37. Section 58.027, Water Code, is amended by amending the heading and Subsection (a) to read as follows:

Sec. 58.027. MULTICOUNTY DISTRICT: CONSIDERATION ~~[HEARING]~~ BY COMMISSION. (a) The commission shall have exclusive jurisdiction and power to consider ~~[hear]~~ and determine all petitions for creation of a district that will include land or property located in two or more counties.

SECTION 38. Section 58.028, Water Code, is amended to read as follows:

Sec. 58.028. MULTICOUNTY DISTRICT: NOTICE AND ~~[OF]~~ HEARING ON DISTRICT CREATION. ~~[(a)]~~ When a petition is filed, the commission shall give notice of an application ~~[a hearing]~~ in the manner provided in Section 49.011 and may conduct a hearing on the application if the commission determines that a hearing is necessary under that section ~~[58.018 of this code]~~.

~~[(b)] The notice shall be posted at the courthouse door, on the bulletin board used for posting legal notices, in each county in which the district may be located.~~

~~[(c)] The notice shall be published in one or more newspapers with general circulation in the area of the proposed district.]~~

SECTION 39. Section 58.030, Water Code, is amended to read as follows:

Sec. 58.030. MULTICOUNTY DISTRICT: CONSIDERATION BY ~~[HEARING OF]~~ COMMISSION; PROCEDURE. (a) The commission shall ~~[hear,]~~ consider~~;~~ and determine on the issues a petition filed under Section 58.028 ~~[of this code]~~.

(b) ~~The~~ ~~[At the hearing of the petition, the]~~ commission shall be governed by the provisions of Section 58.021 ~~[of this code]~~.

SECTION 40. Section 59.007(a), Water Code, is amended to read as follows:

(a) If ~~[after the hearing of the petition]~~ the commission finds after considering the petition that the petition conforms to the requirements of this chapter and that the creation of the district would be of benefit to the territory to be included in the district, the commission shall issue an order granting the petition for creation. If the commission finds that part of the territory included in the proposed district will not benefit from the creation of the district, the commission shall exclude that territory from the proposed district and redefine the proposed district's boundaries accordingly.

SECTION 41. Section 65.018, Water Code, is amended to read as follows:

Sec. 65.018. NOTICE AND HEARING ON DISTRICT CREATION ~~[ESTABLISHING DATE OF HEARING]~~. If a resolution is filed under Section 65.014, the commission shall give notice of an application as required by Section 49.011 and may conduct a hearing on the application if the commission determines that a hearing is necessary under Section 49.011 ~~[(a)]~~ On the filing of a resolution, the commission shall set a date, time, and place at which the resolution will be heard and shall issue notice of the date, time, and place of hearing.

~~[(b)] The notice shall inform all persons of their right to appear and present evidence and testify for or against the material included in the resolution, the form of the resolution, the necessity and feasibility of the water supply corporation's request for conversion, and the benefits to accrue from conversion.]~~

SECTION 42. Section 65.020(a), Water Code, is amended to read as follows:

(a) If the commission determines that a hearing is necessary under Section 49.011, the commission shall conduct a hearing and accept evidence

~~[At the hearing, the commission shall examine the resolution to determine if it is sufficient, and any person interested may appear before the commission in person or by attorney and offer testimony]~~ on the sufficiency of the resolution and whether or not the request for conversion is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

SECTION 43. Section 65.021(a), Water Code, is amended to read as follows:

(a) ~~If [After the hearing on the resolution, if]~~ the commission finds that the resolution conforms to the requirements of Section 65.015 ~~[of this code]~~ and that the request for conversion is feasible and practicable and is necessary and would be a benefit to the land proposed to be included in the district, the commission shall make these findings in an order and shall authorize the creation of the district on approval at the confirmation and directors' election called and held under this subchapter.

SECTION 44. Section 65.103, Water Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The method for determining the initial terms for each of the directors constituting the initial board shall be determined by the temporary directors, and the terms must be clearly stated on the ballot for the confirmation and directors' election. ~~[At subsequent elections in each following year in which there is an election, the election must be held on the same uniform election date as the confirmation and directors' election, and the terms of the directors being elected must be stated on the ballot.]~~

(d) Notwithstanding Sections 41.001 and 41.003, Election Code, the board may hold an election to elect directors on any date determined by the board. The terms of directors must be stated on the ballot.

SECTION 45. Section 66.018, Water Code, is amended to read as follows:

Sec. 66.018. NOTICE AND HEARING ON DISTRICT CREATION. If a petition is filed under Section 66.014, the commission shall give notice of an application as required by Section 49.011 and may conduct a hearing if the commission determines that a hearing is necessary under Section 49.011 [(a) On receiving a petition to create a district, the commission or a person designated by it shall set a date for a hearing on the petition:

[(b) After a date is set for the hearing, the executive director shall give notice of the hearing and the commission shall hold the hearing and issue an order stating its final decision in the manner provided by Chapter 2001, Government Code. In addition to other notice required by law, the executive director shall publish notice in a newspaper with general circulation in the area of the proposed district once a week for two consecutive weeks, the first publication to be made at least 30 days before the date set for the hearing].

SECTION 46. Section 66.019(a), Water Code, is amended to read as follows:

(a) After considering the petition ~~[the hearing]~~, the commission shall grant the petition if it finds that:

(1) the petition conforms to the requirements of Sections 66.014 and 66.015 ~~[of this code]~~; and

(2) the projects proposed by the district are feasible and practicable, are necessary, and will be a benefit to land included in the district.

SECTION 47. Section 6.003(b), Civil Practice and Remedies Code, is amended to read as follows:

(b) The following are exempt from the appeal bond requirements:

(1) a water improvement district, a water control and improvement district, an irrigation district, a conservation and reclamation district, or a water control and preservation district organized under state law;

(2) a levee improvement district organized under state law; ~~[and]~~

(3) a drainage district organized under state law; ~~and~~

(4) an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

SECTION 48. Section 16.061, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 16.061. RIGHTS NOT BARRED. (a) A right of action of this state or a political subdivision of the state, including a county, an incorporated city or town, a navigation district, a municipal utility district, a port authority, an entity acting under Chapter 341, Acts of the 57th Legislature, Regular Session, 1961 (Article 1187f, Vernon's Texas Civil Statutes), [or] a school district, or an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, is not barred by any of the following sections: 16.001-16.004, 16.006, 16.007, 16.021-16.028, 16.030-16.032, 16.035-16.037, 16.051, 16.062, 16.063, 16.065-16.067, 16.070, 16.071, 31.006, or 71.021.

(b) In this section:

(1) "Navigation district" means a navigation district organized under Section 52, Article III, [Section 52;] or Section 59, Article XVI, [Section 59, of the] Texas Constitution.

(2) "Port authority" has the meaning assigned by Section 60.402, Water Code.

(3) "Municipal utility district" means a municipal utility district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

SECTION 49. Section 41.031(a), Election Code, is amended to read as follows:

(a) Except as provided by Section 41.033, the ~~[The]~~ polls shall be opened at 7 a.m. for voting and shall be closed at 7 p.m.

SECTION 50. Subchapter B, Chapter 41, Election Code, is amended by adding Section 41.033 to read as follows:

Sec. 41.033. EARLY CLOSING OF CERTAIN POLLS. Notwithstanding Section 41.031(a), an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, may close the polls before 7 p.m. in an election held by the entity if:

(1) the entity has fewer than 50 qualified voters; and

(2) the number of ballots cast in the election equals the number of qualified voters.

SECTION 51. Section 140.006, Local Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsections ~~[Subsection]~~ (c) and (e), the presiding officer of a governing body shall submit a financial statement prepared under Section 140.005 to a newspaper in each county in which the district or any part of the district is located.

(e) This section does not apply to an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

SECTION 52. Section 191.0525(d), Natural Resources Code, is amended to read as follows:

(d) A project for a county, ~~[or] municipality, or an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution,~~ requires advance project review only if the project affects a cumulative area larger than five acres or disturbs a cumulative area of more than 5,000 cubic yards, whichever measure is triggered first, or if the project is inside a designated historic district or recorded archeological site.

SECTION 53. Section 1.04(3), Tax Code, is amended to read as follows:

(3) "Improvement" means:

(A) a building, structure, fixture, or fence erected on or affixed to land; ~~[or]~~

(B) a transportable structure that is designed to be occupied for residential or business purposes, whether or not it is affixed to land, if the owner of the structure owns the land on which it is located, unless the structure is unoccupied and held for sale or normally is located at a particular place only temporarily; ~~or~~

(C) for purposes of an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution;

(i) subdivision of land by plat;

(ii) installation of water, sewer, or drainage lines; or

(iii) paving of undeveloped land.

SECTION 54. Section 26.012, Tax Code, is amended by amending Subdivisions (8) and (17) to read as follows:

(8) "Debt service" means the total amount expended or to be expended by a taxing unit from property tax revenues to pay principal of and interest on debts or other payments required by contract to secure the debts and, if the unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the unit anticipates incurring in the next calendar year.

(17) "New property value" means:

(A) the total taxable value of property added to the appraisal roll in the current year by annexation and improvements listed on the appraisal roll that were made after January 1 of the preceding tax year, including personal property located in new improvements that was brought into the unit after January 1 of the preceding tax year; ~~and~~

(B) property value that is included in the current total value for the tax year succeeding a tax year in which any portion of the value of the property was excluded from the total value because of the application of a tax abatement agreement to all or a portion of the property, less the value of the property that was included in the total value for the preceding tax year; and

(C) for purposes of an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, property value that is included in the current total value for the tax year succeeding a tax year in which the following occurs:

- (i) subdivision of land by plat;
- (ii) installation of water, sewer, or drainage lines; or
- (iii) paving of undeveloped land.

SECTION 55. Section 26.04(e), Tax Code, is amended to read as follows:

(e) By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the rates to the governing body. He shall deliver by mail to each property owner in the unit or publish in a newspaper in the form prescribed by the comptroller:

(1) the effective tax rate, the rollback tax rate, and an explanation of how they were calculated;

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligation, except that for a school district, estimated funds necessary for the operation of the district prior to the receipt of the first state education aid payment in the succeeding school year shall be subtracted from the estimated fund balances;

(3) a schedule of the unit's debt obligations showing:

(A) the amount of principal and interest that will be paid to service the unit's debts in the next year from property tax revenue, including payments of lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds and other evidences of indebtedness issued on behalf of the unit by another political subdivision and, if the unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the unit anticipates to incur in the next calendar year;

(B) the amount by which taxes imposed for debt are to be increased because of the unit's anticipated collection rate; and

(C) the total of the amounts listed in Paragraphs (A)-(B), less any amount collected in excess of the previous year's anticipated collections certified as provided in Subsection (b) ~~[of this section]~~;

(4) the amount of additional sales and use tax revenue anticipated in calculations under Section 26.041 ~~[of this code]~~;

(5) in the year that a taxing unit calculates an adjustment under Section 26.04(k) or (l) ~~[of this code]~~, the unit shall publish a schedule that includes the following elements:

(A) the name of the unit discontinuing the department, function, or activity;

(B) the amount of property tax revenue spent by the unit listed under Paragraph (A) of this subsection to operate the discontinued department, function, or activity in the 12 months preceding the month in which the calculations required by this chapter are made; and

(C) the name of the unit that operates a distinct department, function, or activity in all or a majority of the territory of a taxing unit that has discontinued operating the distinct department, function, or activity; and

(6) in the year following the year in which a taxing unit raised its rollback rate as required by Section 26.04(l) [~~of this code~~], the taxing unit shall publish a schedule that includes the following elements:

(A) the amount of property tax revenue spent by the unit to operate the department, function, or activity for which the taxing unit raised the rollback rate as required by Section 26.04(l) [~~of this code~~] for the 12 months preceding the month in which the calculations required by this chapter are made; and

(B) the amount published by the unit in the preceding tax year under Section 26.04(e)(5)(B) [~~of this code~~].

SECTION 56. Sections 50.501, 51.030, 51.409, 53.071, 54.019, 54.511, 54.515, 55.041, and 65.019, Water Code, and Section 42.042(e), Local Government Code, are repealed.

SECTION 57. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Flooor Amendment No. 1

Amend CSSB 1865 as follows:

On page 6, line 15, after the word "retail" insert the words "or commercial".

Floor Amendment No. 2

Amend CSSB 1865 as follows:

On page 15, line 8, after the word "the" strike the words "cost of complying with the".

Amendment No. 3

Amend CSSB 1865 SECTION 18, Sec. 49.233, by inserting "unless the injury was proximately caused by negligence" at the end of the sentence, following the word "district."

The amendments were read.

Senator Armbrister moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on SB 1865 before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Brown, Nixon, Bivins, and Wentworth.

SENATE CONCURRENT RESOLUTION 101

Senator Madla offered the following resolution:

WHEREAS, **SB 1568** has passed the Texas Senate and the Texas House of Representatives and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the senate and the house of representatives is necessary; now, therefore, be it

RESOLVED by the 75th Legislature, That the governor be hereby requested to return Senate Bill No. 1568 to the Senate for further consideration; and, be it further

RESOLVED, That the action of the President of the Senate and the Speaker of the House in signing Senate Bill No. 1568 be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

The resolution was read.

On motion of Senator Madla and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 39

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 39** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 39** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Zaffirini, Chair; Sibley, Shapleigh, Moncrief, and Shapiro.

HOUSE BILL 1504 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1504, Relating to the reimbursement of jurors.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1504 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1504** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 1504 was read third time and was passed by a viva voce vote.

(Senator Brown in Chair)

HOUSE BILL 155 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 155, Relating to the listing and registration of family homes; providing penalties.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 155** as follows:

(1) Strike Section 12 and substitute a new section to read as follows:

SECTION 12. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.057 to read as follows:

Sec. 42.057. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) In accordance with rules adopted by the department, the director, owner, or operator of a child-care facility or family home shall:

(1) when applying to operate a child-care facility or when listing or registering a family home, submit to the department for use in conducting background and criminal history checks:

(A) the name of the director, owner, and operator of the facility or home and the name of each person employed at the facility or home; and

(B) the name of each person 14 years of age or older who will regularly or frequently be staying or working at the facility or home while children are being provided care; and

(2) after receiving a license, listing, registration, or certification of approval, submit to the department for use in conducting background and criminal history checks the name of any person not submitted to the department under Subdivision (1) who:

(A) becomes a director, owner, or operator of the facility or home;

(B) is employed at the facility or home; or

(C) is 14 years of age or older and regularly or frequently stays or works at the facility or home while children are being provided care.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection (a);

(2) the information made available by the Department of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(c) The department by rule shall require a child-care facility or registered family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

(2) Strike Section 13 and substitute a new section as follows:

SECTION 13. Section 42.072, Human Resources Code, is amended to read as follows:

Sec. 42.072. LICENSE OR REGISTRATION DENIAL, SUSPENSION, OR REVOCATION. (a) The department ~~[division]~~ may suspend, deny, [or] revoke, or refuse to renew the license, listing, registration, or certification of approval of a facility or family home that does not comply with the requirements of this chapter, the standards and rules of the department, or the specific terms of the license, listing, registration, or certification. The department may revoke the probation of a person whose license, listing, or registration is suspended if the person violates a term of the conditions of probation.

(b) If the department proposes to take an action under Subsection (a), the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. Rules of practice adopted by the board under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings. [The division shall notify the person operating or proposing to operate a facility of the reasons for the denial or revocation and of the person's right to appeal the decision within 30 days after receiving the notice.]

(c) [A person who wishes to appeal a license denial or revocation shall notify the director by certified mail within 30 days after receiving the notice required in Subsection (b) of this section. The person shall send a copy of the notice of appeal to the assigned division representative.]

[(d) The denial or revocation of a license or certification and the appeal from that action are governed by the procedure for a contested case hearing under Chapter 2001, Government Code.]

[(e) A person whose license has been denied or revoked may challenge the decision by filing a suit in a district court of Travis County or the county in which the person's facility is located within 30 days after receiving the decision. The trial shall be de novo.]

[(f) Records of the hearing shall be kept for two years after a decision is rendered. On request, and at the person's own expense, the division shall supply a copy of the verbatim transcript of the hearing to a person appealing a license denial or revocation in district court.]

~~[(g) A person may continue to operate a facility during an appeal of a license denial or revocation unless the division has obtained injunctive relief under Section 42.074 or civil penalties under Section 42.075 or the facility has been closed under Section 42.073.]~~

~~[(h) A person whose license, listing, registration, or certification is revoked may not apply for any license, listing, registration, or certification under this chapter before the second anniversary of the date on which the revocation takes effect by department or court order.~~

~~(d) The department by rule may provide for denial of an application or renewal for a licensed facility or for listing or registering a family home or may revoke a facility's license or a family home's listing or registration based on findings of background or criminal history as a result of a background or criminal history check.~~

(3) Strike Section 14 and renumber remaining sections appropriately.

(4) Strike Section 15 and substitute new section as follows:

SECTION 15. Section 42.073, Human Resources Code, is amended by amending Subsections (a) and (b) to read as follows:

Sec. 42.073. EMERGENCY SUSPENSION AND CLOSURE OF A FACILITY OR FAMILY HOME. (a) The department ~~[division]~~ shall suspend a facility's license or a family home's listing or registration and ~~;~~ order the immediate closing of the facility or family home ~~[- and place the children attending or residing in the facility elsewhere]~~ if:

(1) the department ~~[division]~~ finds the facility or family home is operating in violation of the applicable standards prescribed by this chapter; and

(2) the violation creates an immediate threat to the health and safety of the children attending or residing in the facility or family home.

(b) An order suspending a license, listing or registration and an order closing a facility or family home under this section is immediately effective on the date on which the ~~[license]~~ holder of the license, listing or registration receives written notice or on a later date specified in the order.

The amendment was read and was adopted by a viva voce vote.

HB 155 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 155 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that HB 155 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 155 was read third time and was passed by a viva voce vote.

HOUSE BILL 446 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 446, Relating to the establishment of trusts for certain recipients of medical assistance.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 446 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 446** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 446 was read third time and was passed by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1710

Senator Harris called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1710** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1710** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chair; Wentworth, Duncan, Luna, and Ellis.

SENATE BILL 798 WITH HOUSE AMENDMENT

Senator Harris called **SB 798** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 798** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to alternative dispute resolution in certain family-related suits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 6.404(a), Family Code, as added by Senate Bill 334, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(a) A party to a proceeding under this title shall include in the first pleading filed by the party in the proceeding the following statement:

"I AM AWARE THAT IT IS THE POLICY OF THE STATE OF TEXAS
TO PROMOTE THE AMICABLE AND NONJUDICIAL SETTLEMENT

OF DISPUTES INVOLVING CHILDREN AND FAMILIES. I AM AWARE OF ALTERNATIVE DISPUTE RESOLUTION METHODS, INCLUDING MEDIATION. WHILE I RECOGNIZE THAT ALTERNATIVE DISPUTE RESOLUTION IS AN ALTERNATIVE TO AND NOT A SUBSTITUTE FOR A TRIAL AND THAT THIS CASE MAY BE TRIED IF IT IS NOT SETTLED, I REPRESENT TO THE COURT THAT I WILL ATTEMPT IN GOOD FAITH TO RESOLVE BEFORE FINAL TRIAL CONTESTED ISSUES IN THIS CASE BY ALTERNATIVE DISPUTE RESOLUTION WITHOUT THE NECESSITY OF COURT INTERVENTION."

SECTION 2. Subsections (a) and (c), Section 102.0085, Family Code, are amended to read as follows:

(a) A party to a proceeding brought under this chapter and Chapters 151, 153, 154, 156, [and] 160, and 161 shall include in the first pleading filed by the party in the proceeding the following statement:

"I AM AWARE THAT IT IS THE POLICY OF THE STATE OF TEXAS TO PROMOTE THE AMICABLE AND NONJUDICIAL SETTLEMENT OF DISPUTES INVOLVING CHILDREN AND FAMILIES. I AM AWARE OF ALTERNATIVE DISPUTE RESOLUTION METHODS INCLUDING MEDIATION. WHILE I RECOGNIZE THAT ALTERNATIVE DISPUTE RESOLUTION IS AN ALTERNATIVE TO AND NOT A SUBSTITUTE FOR A TRIAL AND THAT THIS CASE MAY BE TRIED IF IT IS NOT SETTLED, I REPRESENT TO THE COURT THAT I WILL ATTEMPT IN GOOD FAITH TO RESOLVE BEFORE FINAL TRIAL CONTESTED ISSUES IN THIS CASE BY ALTERNATIVE DISPUTE RESOLUTION WITHOUT THE NECESSITY OF COURT INTERVENTION."

(c) The statement in Subsection (a) is not required for:

- (1) a pleading in which citation on all respondents entitled to service of citation is requested, issued, and given by publication;
- (2) a motion or pleading that seeks relief under Section 105.001(c), [or] Subchapter H, Chapter 157, or Chapter 262; or
- (3) a special appearance under Rule 120A, Texas Rules of Civil Procedure.

SECTION 3. Section 153.0071(f), Family Code, is repealed.

SECTION 4. This Act takes effect September 1, 1997, and applies only to a suit filed under Title 1, Family Code, or Chapter 151, 153, 154, 156, 157, 160, 161, or 262, Family Code, on or after that date.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 798** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chair; Duncan, Ellis, Madla, and Shapiro.

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 137 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 137, Relating to the qualifications of certain charitable organizations for an exemption from ad valorem taxation.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 137 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 137** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSHB 137 was read third time and was passed by a viva voce vote.

HOUSE BILL 685 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 685, Relating to issuance of special license plates for a vehicle used to transport a person with a disability.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 685 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 685** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 685 was read third time and was passed by a viva voce vote.

HOUSE BILL 1909 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1909, Relating to the methods used to extend the period of supported employment for recipients of Temporary Assistance for Needy Families.

The bill was read second time.

Senator Truan offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1909** (engrossed version) as follows:

(1) On page 1 of the bill, lines 10 and 11, strike "subject to the availability of funds, shall" and substitute "may".

(2) On page 1, between lines 14 and 15, insert the following and reletter subsequent subsections appropriately.

(b) The department may limit the percentage of earnings disregarded, impose a time limit on how long the earnings are disregarded or gradually reduce the percentage of earnings disregarded in order to remain within available funding.

(c) Funding for earnings disregards may also come from savings associated with sanctions related to noncompliance with the personal responsibility agreement and work requirements in this chapter, from savings resulting from caseload declines below projections specified in the Appropriations bill, and from Temporary Assistance for Needy Families (TANF) block grant funds.

The committee amendment was read and was adopted by a viva voce vote.

HB 1909 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1909 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1909** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 1909 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2017 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 2017, Relating to telemedicine services provided under the Medicaid and Medicare programs.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend CSHB 2017 as follows:

(1) In SECTION 1 of the bill, in proposed Section 531.0215(c), Government Code (senate committee report, page 1, line 30), after the period, insert "The commission may not require that a service be provided to a patient through telemedicine when the service can reasonably be provided by a physician through a face-to-face consultation with the patient in the community in which the patient resides or works. This subsection does not prohibit the authorization of the provision of any service to a patient through telemedicine at the patient's request.".

(2) In SECTION 1 of the bill, in proposed Section 531.0215, Government Code (senate committee report, page 1, between lines 30 and 31), insert the following new Subsection (d) and renumber current Subsection (d) as (e):

(d) Subject to Section 5.11, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), the commission may adopt rules as necessary to implement this section.

(3) Add the following appropriately numbered SECTION to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION __. Subchapter E, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Section 5.11 to read as follows:

Sec. 5.11. RULES REGARDING TELEMEDICINE SERVICES. The board, in consultation with the Health and Human Services Commission and the commissioner of insurance, may adopt rules as necessary to:

(1) ensure that appropriate care is provided to patients who receive services that are provided through telemedicine; and

(2) prevent abuse and fraud in the use of telemedicine services, including rules relating to filing of claims and records required to be maintained in relation to telemedicine.

The amendment was read and was adopted by a viva voce vote.

CSHB 2017 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2017 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSHB 2017 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSHB 2017 was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2522 ON SECOND READING

Senator Luna asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 2522, Relating to the operation of a motorcycle on a public street or highway.

There was objection.

Senator Luna then moved to suspend the regular order of business and take up **HB 2522** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Ogden, Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Nelson, Nixon, Shapiro.

HB 2522 was read second time.

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2522**, SECTION 1, Section 547.801, page 1, line 14, by adding the following language after the word illuminated.
, this requirement does not apply to motorcycles manufactured in England before the model year 1975.

The amendment was read and was adopted by a viva voce vote.

HB 2522 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Nelson, Nixon, and Shapiro asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 2522 ON THIRD READING

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2522** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Ogden, Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Nelson, Nixon, Shapiro.

HB 2522 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Nelson, Nixon, and Shapiro asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Brown in Chair)

HOUSE BILL 2600 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2600, Relating to the collection of delinquent obligations to the state.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2600 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2600** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 2600 was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Luna, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Moncrief.

HOUSE BILL 2649 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2649, Relating to the maximum ad valorem tax rate for certain rural fire prevention districts.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2649 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2649** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 2649 was read third time and was passed by a viva voce vote.

HOUSE JOINT RESOLUTION 96 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HJR 96, Proposing a constitutional amendment to authorize the legislature to authorize an ad valorem tax of five cents for each \$100 of taxable property in rural fire prevention districts located in Harris County.

The resolution was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Brown asked to be recorded as "Present-not voting" on the passage of the resolution to third reading.

HOUSE JOINT RESOLUTION 96 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 96** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Brown.

HJR 96 was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 189 ON SECOND READING**

Senator Haywood asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 189, Relating to the civil liability of charitable organizations that are chambers of commerce.

There was objection.

Senator Haywood then moved to suspend the regular order of business and take up **CSSB 189** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Ellis, Gallegos, Truan.

Absent: Barrientos, Luna, Moncrief.

CSSB 189 was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTES

Senators Ellis, Gallegos, and Truan asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 189 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 189** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Ellis, Gallegos, Truan.

Absent: Barrientos, Luna, Moncrief.

CSSB 189 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Ellis, Gallegos, and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 2861 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2861, Relating to sanctions against retail sellers of alcoholic beverages for violations relating to minors.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2861 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2861** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 2861 was read third time and was passed by a viva voce vote.

HOUSE BILL 3137 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3137, Relating to adding new provisions to the Texas Workers' Compensation Act regarding judicial review, court judgments and

settlements, and Texas Workers' Compensation Commission's right to notice and opportunity to intervene prior to issuance of a judgment or settlement.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 3137** as follows:

In SECTION 1 of the bill, amend proposed subsection (g), Section 410.256, Labor Code (page 2, line 18, engrossed version), by striking "Section 410.259" and inserting "Section 410.258" in lieu thereof.

The committee amendment was read and was adopted by a viva voce vote.

HB 3137 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3137 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3137** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 3137 was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Leonel Garza, Jr., his wife Elda, his daughters Elsa and Imelda, and his grandchildren Christy and Lloyd Anthony.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Gallegos was recognized and introduced to the Senate Jessica Ortega, an intern in his office, who was celebrating her birthday today.

The Senate extended birthday greetings to Jessica.

HOUSE BILL 3544 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3544, Relating to the justice of the peace courts of Harris County.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 3544 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional rule requiring bills to be read on three several days be suspended and that **HB 3544** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 3544 was read third time and was passed by a viva voce vote.

SENATOR ANNOUNCED ABSENT-EXCUSED

On motion of Senator Wentworth, Senator Carona was announced "Absent-excused" on account of important business.

HOUSE BILL 1917 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time its second reading and passage to third reading:

HB 1917, Relating to the powers and duties of the Texas Juvenile Probation Commission and of juvenile boards.

The bill was read second time.

Senator West offered the following amendment to the bill:

Amendment No. 1

Amend **HB 1917** as follows:

Delete SECTION 2 of the bill in its entirety and renumber remaining SECTIONS appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator West offered the following amendment to the bill:

Amendment No. 2

Amend SECTION 6 of **HB 1917** as follows:

On page 2, line 33, after the words "amount spent", insert the following: excluding construction and capital outlay expenses.

The amendment was read and was adopted by a viva voce vote.

HB 1917 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1917 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1917** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1917 was read third time and was passed by a viva voce vote.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

Wednesday, May 21, 1997

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SCR 91, Commending Pamela W. Reese for her service to Alpha Delta Pi Sorority at the University of Texas at Austin.

SCR 99, Requesting the governor to return Senate Bill No. 1437 to the house for further consideration.
(Amended)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives**HOUSE BILL 3515 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3515, Relating to the transfer, sale, or exchange of real property between the General Services Commission and the City of Austin.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 3515 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3515** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 3515 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE**HOUSE BILL 2086 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 2086, Relating to the regulation and operation of bingo.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2086** as follows:

(1) On page 6, lines 28-29, strike "The commission shall adopt renewal forms that have reasonably sized pages and reasonably sized print."

(2) On page 6, lines 33-34, strike "The commission shall adopt renewal forms that have pages and print of reasonable size."

The amendment was read and was adopted by a viva voce vote.

Floor Amendment No. 2 was not offered.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2086** by adding a new SECTION appropriately numbered to read as follows:

SECTION __. Section 13, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by adding Subsection (v) to read as follows:

(v)(1) Except as provided in this subsection, no more than one bingo location may exist under a common roof or over a common foundation.

(2) This subdivision (v) does not apply where more than one bingo location lawfully exists under a common roof or over a common foundation pursuant to a license application filed with the commission on or before May 23, 1997, and the commission shall renew any license at such location that is otherwise in compliance with this Act.

(3) Subdivision (v)(2) does not apply if one or more of the bingo locations under a common roof or over a common foundation ceases to lawfully exist.

The amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2086** by adding a new, appropriately numbered section to read as follows:

SECTION __. Section 13(q), Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended to read as follows:

(q) The following persons are not eligible for a commercial license to lease bingo premises to a licensed authorized organization:

(1) a person convicted of a felony, criminal fraud, gambling or gambling-related offense, or crime of moral turpitude, if less than 10 years have elapsed since the termination of any sentence, parole, mandatory supervision, or probation served for the offense;

(2) a public officer who receives any consideration, direct or indirect, as owner or lessor of premises offered for the purpose of conducting bingo;

(3) a person who extends credit to, loans money to, or pays or provides for the payment of license fees for an authorized organization;

(4) a distributor or manufacturer; ~~[or]~~

(5) a person, firm, or corporation in which a person covered by Subdivision (1), (2), (3), or (4) of this subsection or a person married or related in the first degree by consanguinity or affinity, as determined under Article 5996h, Revised Statutes, to one of those persons has greater than a 10 percent proprietary, equitable, or credit interest or in which one of those persons is active or employed[-];

~~(7) a foreign corporation or a corporation owned or controlled by a foreign corporation; or~~

~~(8) a corporation whose shares are publicly traded or a corporation that is owned or controlled by a corporation whose shares are publicly traded.~~

The amendment was read and was adopted by a viva voce vote.

CSHB 2086 as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 2086 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2086** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

CSHB 2086 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE CONCURRENT RESOLUTION 144 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

HCR 144, Creating a special committee to designate Texas State Artists.

The resolution was read second time and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Madla was recognized and introduced to the Senate a group of seventh-grade students and their teacher from Sunnybrook Christian School of San Antonio.

The Senate welcomed its guests.

Senator Lucio was recognized and introduced to the Senate Mrs. Helen Madla, Senator Madla's wife who is accompanying the students, and Senator Madla's daughter Marci, a student at Sunnybrook Christian School.

The Senate welcomed Mrs. Madla and her daughter Marci.

HOUSE BILL 63 ON THIRD READING

The Presiding Officer laid before the Senate **HB 63** on its third reading and final passage. The Constitutional Three-day Rule was suspended and further consideration was postponed yesterday to a time certain of 9:30 a.m. today.

HB 63, Relating to student debit card programs operated by public institutions of higher education.

Question—Shall **HB 63** be read third time?

HB 63 was read third time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 63** as follows:

Amend Section 51.940(c) (page 1, lines 28-35) by inserting the following after the period (page 1, line 35):

"The institution of higher education may assess participating businesses a fee, sufficient to cover the cost of implementation and administration of this program."

The amendment was read and was adopted by unanimous consent.

HB 63 as amended was finally passed by a viva voce vote.

(Senator Ratliff in Chair)

SENATE CONCURRENT RESOLUTION 71 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

SCR 71, Granting Orian R. Gardner permission to sue the State of Texas and the Texas Department of Transportation.

The resolution was read second time.

Senator Madla offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **SCR 71** by inserting after the third resolving clause (page 2, between lines 7 and 8, Introduced version) the following:

RESOLVED, That the remedy available to Mr. Orian R. Gardner in the suit authorized by this resolution is limited to actual damages; and, be it further

The amendment was read and was adopted by a viva voce vote.

SCR 71 as amended was adopted by a viva voce vote.

HOUSE BILL 3391 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3391, Relating to the licensing of banks as insurance agents and to certain nonresident agents; providing a penalty.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3391** as follows:

In SECTION 22, Sec. 1, Subdivision (2) of the bill (page 17, lines 17 through 30, committee printing) strike Subdivision (2) in its entirety and substitute the following:

(2) "Bank" means a national banking association organized and existing under the National Bank Acts (12 U.S.C. Section 21 et seq.), a state bank organized and existing under the Texas Banking Act (Article 342-1.001 et seq., Vernon's Texas Civil Statutes), a state savings bank organized and existing under the Texas Savings Bank Act (Article 489e, Vernon's Texas Civil Statutes), a bank branch, or a bank operating subsidiary, as defined by state or federal law, that is located and doing business in this state in a place with a population of 5,000 or less.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Truan asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 1.

HB 3391 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Truan asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

HOUSE BILL 3391 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3391** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Truan.

Absent-excused: Carona.

HB 3391 was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1. (Same as previous roll call)

**HOUSE CONCURRENT RESOLUTION 204
ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

HCR 204, Directing the Texas Workforce Commission to implement a subsidized work program for unemployed job applicants.

The resolution was read second time and was adopted by a viva voce vote.

HOUSE JOINT RESOLUTION 55 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HJR 55, Proposing a constitutional amendment relating to a deadline for supreme court action on a motion for rehearing.

The resolution was read second time and was passed to third reading by a viva voce vote.

HOUSE JOINT RESOLUTION 55 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 55** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HJR 55 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 785 ON SECOND READING

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 785, Relating to venue in a suit against a political subdivision.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 785 ON THIRD READING

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 785** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 785 was read third time and was passed by a viva voce vote.

HOUSE BILL 1755 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1755, Relating to a mortgage guaranty insurance policy.

The bill was read second time.

Senator Moncrief offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1755** in SECTION 1 of the bill, in Subsection (c) of added Section 1B, Article 21.50, Insurance Code (engrossed version, page 2, line 2), between "(c)" and "In", by inserting the following:

"If federal law requires a lender to provide a borrower with a written notice containing substantially the same information required by Subsection (a) of this section, a lender who provides the notice required by federal law within the period prescribed by federal law satisfies the notice requirement of Subsection (a) of this section.

(d)"

The committee amendment was read and was adopted by a viva voce vote.

HB 1755 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1755 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1755** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1755 was read third time and was passed by a viva voce vote.

HOUSE BILL 3337 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3337, Relating to application of the Capitol view corridors to the construction, redevelopment, and improvement of East 11th Street pursuant to the East 11th and 12th Streets Redevelopment Program.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 3337 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3337** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 3337 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 932 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 932, Relating to the manner in which salaries are paid to certain employees of the Texas School for the Deaf.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 932 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 932** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 932 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2617 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2617, Relating to the assessment of certain court costs in criminal cases and the use of that revenue to fund the Bill Blackwood Law Enforcement Management Institute.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2617** as follows:

In SECTION 3, strike "This Act takes effect September 1, 1997." and substitute the following:

"(a) Except as provided by subsection (b), this Act takes effect on September 1, 1997.

(b) SECTION 1 of this Act takes effect only if **HB 2272**, 75th Legislature, Regular Session, 1997, does not become law."

The amendment was read and was adopted by a viva voce vote.

HB 2617 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2617 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2617** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

Question—Shall **HB 2617** be read third time?

GUESTS PRESENTED

Senator Cain, on behalf of Senator West, was recognized and introduced to the Senate a group of eighth-grade students and their teachers from Our Lady of Perpetual Help School of Dallas.

The Senate welcomed its guests.

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

HB 3, HB 107, HB 131, HB 212, HB 213, HB 606, HB 909, HB 979, HB 996, HB 1052, HB 1055, HB 1091, HB 1128, HB 1200, HB 1216, HB 1254, HB 1257, HB 1279, HB 1280, HB 1345, HB 1428, HB 1460, HB 1521, HB 1576, HB 1673, HB 1761, HB 1826, HB 2105, HB 2119, HB 2183, HB 2254, HB 2353, HB 2519, HB 2666, HB 2683, HB 2702, HB 2877, HB 2933, HB 3366, HB 3443, HB 3579, HB 3585, HB 3594, HCR 248, HCR 259, HCR 273

RECESS

On motion of Senator Truan, the Senate at 12:01 p.m. recessed until 1:00 p.m. today.

AFTER RECESS

The Senate met at 1:00 p.m. and was called to order by Senator Brown.

HOUSE BILL 2383 ON SECOND READING

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2383, Relating to the qualification of a nonprofit charitable or religious organization, school, or youth association for an exemption from ad valorem taxation.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2383** as follows:

(1) Strike the recital to SECTION 4 of the bill (Committee Printing page 2, lines 30 and 31) and substitute:

SECTION 4. Section 11.21, Tax Code, is amended by amending Subsection (d) and adding Subsection (f) to read as follows:

(2) At the end of SECTION 4 of the bill (Committee Printing page 2, between lines 61 and 62), insert:

(f) Notwithstanding Subsection (a), a person is entitled to an exemption from taxation of the buildings and tangible personal property the person acquires for use for a school that meets each requirement of Subsection (d) if:

(1) the person authorizes the former owner to continue to use the property pending the use of the property for a school; and

(2) the former owner would be entitled to an exemption from taxation of the property if the former owner continued to own the property.

(3) Add the following appropriately numbered section and renumber the subsequent sections of the bill appropriately:

SECTION __. The chief appraiser of an appraisal district shall accept and approve or deny an application for an exemption from ad valorem taxation under Section 11.21(f), Tax Code, as added by this Act, for the ad valorem tax year that began January 1, 1997, if the application is filed as provided by Section 11.434, Tax Code.

The amendment was read and was adopted by a viva voce vote.

HB 2383 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2383 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2383** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 2383 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 218 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 218, Relating to enforcement of the National Flood Insurance Program by certain counties; providing a civil penalty.

The bill was read second time.

Senator Harris offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 218** (House engrossed version) as follows:

(1) In SECTION 1, Sec. 16.322, replace the phrase "Section 16.323" with the phrase "this subchapter" wherever it appears in the subsection.

The committee amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 218** between SECTIONS 1 and 2 of the bill (committee printing page 1, between lines 42 and 43) by inserting the following section and renumbering the subsequent sections appropriately:

SECTION 2. This Act does not change the elements of a violation of Subchapter I, Chapter 16, Water Code, or a rule adopted or order issued under that subchapter. This Act merely provides an additional remedy for a violation or threatened violation of that subchapter or a rule adopted or order issued under that subchapter.

The amendment was read and was adopted by a viva voce vote.

HB 218 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 218 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 218** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 218 was read third time and was passed by a viva voce vote.

**SENATE CONCURRENT RESOLUTION 95
ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

SCR 95, Authorizing the creation of the Texas Education Telecommunications Coordinating Committee.

The resolution was read second time and was adopted by a viva voce vote.

HOUSE BILL 2556 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2556, Relating to eligibility for state assistance under the Indigent Health Care and Treatment Act for certain hospitals.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2556 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2556** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 2556 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 297 ON SECOND READING

Senator Galloway asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 297, Relating to certain signs controlling use of traffic lanes.

There was objection.

Senator Galloway then moved to suspend the regular order of business and take up **HB 297** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Luna, Madla, Nelson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, Whitmire, Zaffirini

Nays: Harris, Moncrief, Ogden.

Absent: Nixon, Patterson, West.

Absent-excused: Carona.

HB 297 was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Harris, Moncrief, and Ogden asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 297 ON THIRD READING

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 297** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Duncan, Ellis, Fraser, Gallegos, Galloway, Haywood, Lindsay, Lucio, Luna, Madla, Nelson, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Moncrief, Ogden.

Absent-excused: Carona.

HB 297 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Harris, Moncrief, and Ogden asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, May 21, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 214, Designating Mission the Home of the Grapefruit.

SB 10, Relating to the authority of certain counties to adopt and enforce a fire code.

SB 11, Relating to the enforcement of a child support obligation in a suit to terminate the parent-child relationship.

SB 12, Relating to the certification of peace officers as special officers for mental health assignment.

SB 16, Relating to the creation, administration, powers, duties, operation, and financing of the Bee Groundwater Conservation District; authorizing the issuance of bonds and the imposition of taxes; granting the power of eminent domain.

SB 18, Relating to the creation of certain municipal management districts; authorizing the issuance of bonds and the imposition of taxes.

SB 48, Relating to the definition of "victim" in the context of maintaining the confidentiality of a sex offense victim's identity.

SB 57, Relating to participation of certain AFDC recipients in the job opportunities and basic skills (JOBS) training program.

SB 395, Relating to parties authorized to enter into interlocal cooperation contracts.
(Amended)

SB 899, Relating to the organization and governance of water supply and sewer service corporations.

SB 1450, Relating to the terms of tax abatement agreements entered into by the Dallas County Flood Control District No. 1.

SB 1479, Relating to civil immunity for volunteers for institutions of higher education.

SB 1623, Relating to the power of the Lubbock County Hospital District to provide facilities and hospital-related equipment, supplies, and services to Lubbock County for the use of the medical examiner's office.

SB 1793, Relating to the power and authority of the Upper Guadalupe River Authority to borrow money for any corporate purpose or combination of corporate purposes.
(Amended)

SB 1811, Relating to energy conservation measures by institutions of higher education, including the financing of such measures.

SB 1925, Relating to preferential rights to purchase certain surveyed, unsold land in Cass County dedicated to the permanent school fund.

SB 1930, Relating to the creation of the Red River Redevelopment Authority; granting the authority to issue bonds; authorizing a tax.
(Committee Substitute)

SB 1936, Relating to the composition of the Rockwall County Juvenile Board.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

HOUSE BILL 733 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 733, Relating to the lease of certain state facilities.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 733** by adding the following section, appropriately numbered, and renumbering the existing sections appropriately:

SECTION __. Section 2165.004, Government Code, is amended to read as follows:

Sec. 2165.004. LEASE OF SPACE TO PUBLIC TENANTS IN ~~[CERTAIN]~~ STATE-OWNED BUILDINGS. (a) The commission or a state agency with charge and control of a state building may enter into a lease agreement with a department, commission, board, agency, or other instrumentality of the state, a political subdivision of the state, or the federal government or its instrumentalities for space in the [an office] building [subject to Chapter 2166]. Except as provided by Subchapter E or other law, the commission may not lease space in a state office [the] building to an individual, private corporation, association, partnership, or other private interest.

(b) The commission or a state agency with charge and control of a state building may adopt rules necessary to implement this section.

(c) In this section, "political subdivision" includes a county, municipality, school district, water or irrigation district, hospital district, council of governments, or regional planning commission.

The amendment was read and was adopted by a viva voce vote.

HB 733 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 733 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 733** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 733 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2394 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2394, Relating to course fees charged for certain courses at public institutions of higher education.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2394** as follows:

On page 1, lines 1-13 to 1-18 (committee printing) delete Section 54.203(g) in its entirety and insert new Section 54.203(g) to read:

(g) The exemptions provided by Subsections (a) and (b) do not apply to a course fee or training fee charged by Central Texas College to cover the special costs associated with a particular course in aircraft flight training.

On page 1, lines 1-19 to 1-20 (committee printing), strike "by an institution of higher education"

The amendment was read and was adopted by a viva voce vote.

HB 2394 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2394 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2394** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 2394 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 119 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 119, Relating to disclosure of ingredients in cigarettes and tobacco products.

The bill was read second time.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 119** as follows:

(1) In Section 161.254(a), Health and Safety Code, as added by SECTION 1 of the bill, strike "Except as provided by Subsections (b) and (c)" and substitute "Except as provided by Subsections (b), (c), and (d)".

(2) In Section 161.254, Health and Safety Code, as added by SECTION 1 of the bill, strike Subsection (d) and substitute the following:

(d) Information included in a report filed under this subchapter is confidential under Chapter 552, Government Code, if the information would be excepted from public disclosure as a trade secret under state or federal law.

The amendment was read and was adopted by a viva voce vote.

HB 119 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 119 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 119** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Armbrister.

Absent: Cain, West.

Absent-excused: Carona.

HB 119 was read third time and was passed by the following vote:
Yeas 28, Nays 1.

Nays: Armbrister.

Absent: Cain.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1356 ON SECOND READING**

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 1356, Relating to licensing of funeral prearrangement life insurance agents.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1356 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1356** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

CSHB 1356 was read third time and was passed by the following vote:
Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1453 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1453, Relating to the enforcement of certain laws prohibiting employment discrimination by the Commission on Human Rights.

The bill was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Haywood, Ogden, and Ratliff asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1453 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1453** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Armbrister, Barrientos, Brown, Cain, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Patterson, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Haywood, Ogden, Ratliff.

Absent-excused: Carona.

HB 1453 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Haywood, Ogden, and Ratliff asked to be recorded as voting "Nay" on the final passage of the bill.

MOTION TO PLACE HOUSE BILL 32 ON SECOND READING

Senator Nelson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 32, Relating to primary election dates and procedures and related dates, deadlines, and procedures.

There was objection.

Senator Nelson then moved to suspend the regular order of business and take up **HB 32** for consideration at this time.

The motion was lost by the following vote: Yeas 19, Nays 10. (Not receiving two-thirds vote of Members present)

Yeas: Bivins, Cain, Duncan, Fraser, Harris, Haywood, Lucio, Luna, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, Zaffirini.

Nays: Barrientos, Brown, Ellis, Gallegos, Galloway, Lindsay, Moncrief, Truan, West, Whitmire.

Absent: Armbrister.

Absent-excused: Carona.

HOUSE BILL 3052 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3052, Relating to the liability of certain marine fire-fighting entities.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3052** as follows:

(1) In Section 78.051, Civil Practice and Remedies Code, as added by

SECTION 1 of the bill, insert a new Subdivision (1) (page 1, between lines 21 and 22, Senate committee printing) to read as follows:

(1) "Fire emergency" means an emergency response involving fire protection or prevention, rescue, emergency medical, or hazardous material response services.

(2) In Section 78.051, Civil Practice and Remedies Code, as added by SECTION 1 of the bill, renumber Subdivision (1) as Subdivision (2), Subdivision (2) as Subdivision (3), and Subdivision (3) as Subdivision (4) (page 1, lines 22, 24, and 26, Senate committee printing).

(3) In Section 78.052(1), Civil Practice and Remedies Code, as added by SECTION 1 of the bill (page 1, line 47, Senate committee printing), at the end of Paragraph (A), strike "or".

(4) In Section 78.052(1), Civil Practice and Remedies Code, as added by SECTION 1 of the bill (page 1, line 50, Senate committee printing), at the end of Paragraph (B), strike "or".

(5) In Section 78.052(1), Civil Practice and Remedies Code, as added by SECTION 1 of the bill (page 1, between lines 50 and 51, Senate committee printing), following Paragraph (B), insert the following:

"(C) on property owned or under the control of the governmental unit; or

(D) at the request of the governmental unit in the interest of public safety; or".

The amendment was read and was adopted by a viva voce vote.

HB 3052 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3052 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3052** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 3052 was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE

HOUSE BILL 812 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 812, Relating to certain communications between physicians, dentists, or other providers and patients or health care plan enrollees and to certain related contracts.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend CSHB 812 as follows:

(1) In SECTION 2, Section 241.1015, Health and Safety Code, strike Subsection (a)(4) (page 1, lines 55-56, committee printing), and renumber the subsequent subdivisions accordingly.

(2) In SECTION 2, Section 241.1015, Health and Safety Code (page 2, between lines 7 and 8, committee printing), add new Subsections (d) and (e) to read as follows, and renumber the subsequent subsections accordingly:

"(d) This section does not prevent a hospital from entering into contracts with physicians to ensure physician availability and coverage at the hospital or to comply with regulatory requirements or quality of care standards established by the governing body of the hospital.

(e) This section does not prevent the governing body of a hospital from:

(1) limiting the number of physicians granted medical staff membership or privileges at the hospital based on a medical staff development plan that is unrelated to a physician's professional or business relationships or associations including those with another physician or group of physicians or to a physician or a partner, associate or employee of a physician having medical staff membership or privileges at another hospital or hospital system; or

(2) limiting the ability of hospital medical directors to contract with or hold medical staff memberships or clinical privileges at different hospitals or hospital systems provided that such limitations do not extend to the medical directors' professional or business relationships or associations including those with another physician, group of physicians or other health care providers, other than hospitals or hospital systems."

(3) In SECTION 2, Section 241.1015, Health and Safety Code strike Subsection (e) (page 2, line 9 - 11, committee printing), and substitute the following:

"(e) In this section, "health care plan" has the meaning assigned by Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code), and "hospital medical directors" means physicians who have been employed by or are under contract with a hospital to manage a clinical department or departments of the hospital."

The amendment was read and was adopted by a viva voce vote.

CSHB 812 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 812 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSHB 812 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

CSHB 812 was read third time and was passed by a viva voce vote.

(Senator Sibley in Chair)

HOUSE BILL 1477 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1477, Relating to immunity from liability for the directors of the Texas Catastrophe Property Insurance Association.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1477** as follows:

Strike SECTION 2 of the bill (committee printing page 1, lines 22-42) and substitute the following:

"SECTION 2. Section 10, Article 21.49, Insurance Code, is amended to read as follows:

Sec. 10. IMMUNITY FROM LIABILITY. (a) A director or officer of the Association is not individually liable for any act or failure to act in the performance of official duties in connection with the Association.

(b) Subsection (a) does not apply to:

(1) an act or failure to act of an employee of the Association;

(2) an act or failure to act of the Association;

(3) an act or omission involving a motor vehicle; or

(4) an act or failure to act that constitutes bad faith, intentional misconduct or gross negligence.

(c) There shall be no liability on the part of and no cause of action of any nature shall arise against a director of the association, the Board or any of its staff, the Association or its agents or employees, or against any participating insurer or its agents or employees, for any inspections made under the plan of operation or any statements made in good faith by them in any reports or communications concerning risks submitted to the Association, or at any administrative hearings conducted in connection therewith under the provisions of this Act."

The amendment was read and was adopted by a viva voce vote.

HB 1477 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1477 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1477** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1477 was read third time and was passed by a viva voce vote.

HOUSE BILL 1853 ON SECOND READING

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1853, Relating to coverage provided under certain policies issued through the Texas Catastrophe Property Insurance Association.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1853 ON THIRD READING

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1853** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1853 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3383 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 3383, Relating to the operation of the Texas catastrophe property insurance pool.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3383 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3383** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

CSHB 3383 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 2906 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2906, Relating to the duties of the state auditor, state audits, and investigations.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2906** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION __. Section 321.001, Government Code, is amended to read as follows:

Sec. 321.001. DEFINITIONS. In this chapter:

(1) "Audit working paper" means all documentary and other information prepared or maintained in conducting an audit or investigation, including all intra-agency and interagency communications relating to an audit or investigation and all draft reports or portions thereof.

(2) "Committee" means the legislative audit committee.

(3)[2] "Department" includes every state department, agency, board, bureau, institution, or commission.

SECTION __. Section 321.019(a), Government Code, is amended to read as follows:

Sec. 321.019. INTERFERENCE WITH AUDIT OR INVESTIGATION [EXAMINATION OF RECORDS]. (a) An officer or employee of this state or of an entity subject to audit or investigation by the state auditor [a governmental unit of the state] commits an offense if the officer or employee:

(1) refuses to immediately permit the State Auditor to examine or have access to the books, accounts, reports, vouchers, papers, documents, or electronic data to which the State Auditor is entitled under Section 321.013(e) or other law, or to the cash drawer, or cash from the officer's or employee's department;

(2) interferes with an examination by the State Auditor; or

(3) refuses to make a report required by this chapter.

(b) An offense under this section is a Class A misdemeanor ~~;-punishable by a fine of not less than \$100 nor more than \$1,000, by imprisonment in the county jail for not less than one month nor more than one year, or by both~~.

SECTION __. Section 552.116, Government Code, is amended to read as follows:

Sec. 552.116. EXCEPTION: AUDIT [STATE AUDITOR] WORKING PAPERS. An audit working paper or draft audit report of the state auditor or of another state agency or institution of higher education as defined by Section 61.003, Education Code, is excepted from the requirements of Section 552.021.

The amendment was read and was adopted by a viva voce vote.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2906**, by inserting the following new SECTIONS in the appropriate location and renumbering as appropriate:

SECTION __. Section 42.006, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The agency shall make available to school districts through the Internet information on the students, student performance, staffing, and financing of Texas public school districts, using data from the Public Education Information Management System. The agency shall provide the information by county and region to enable a district to compare its results to those of neighboring districts, its region, and statewide averages.

SECTION __. The State Auditor's Office shall discontinue its production of the annual Savings Profile System for Texas School Districts reports.

SECTION __. (a) As soon as practicable, the Texas Education Agency shall make available through the Internet the information required by Subsection (d), Section 42.006, Education Code, as added by this Act.

(b) On request by a school district, the Texas Education Agency shall provide a report containing data comparable to that provided by the State Auditor's Office in its Savings Profile System for Texas School Districts reports until the information required by Subsection (d), Section 42.006, Education Code, as added by this Act, becomes available on the Internet.

(c) By September 1, 1997, the Texas Education Agency shall notify each school district of the availability of the reports provided in Subsection (b) and inform each district of when the school district data provided in the reports will become available on the Internet.

The amendment was read and was adopted by a viva voce vote.

HB 2906 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2906 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2906** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 2906 was read third time and was passed by a viva voce vote.

HOUSE BILL 1327 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1327, Relating to the offense of barratry.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1327 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1327** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1327 was read third time and was passed by a viva voce vote.

HOUSE BILL 1070 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1070, Relating to drug regulation and enforcement under the Texas Controlled Substances Act and to the authority of certain state agencies under that Act and to certain penalties for the use of a controlled substance to commit the offense; imposing criminal penalties.

The bill was read second time.

Senator Madla offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1070** on page 25 line 23 by adding the following after the word "Commissioner":
" , with the approval of the Texas Board of Health ,".

On motion of Senator Patterson, Committee Amendment No. 1 was tabled by a viva voce vote.

Senator Madla offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 1070** as follows:

Delete SECTION 25 and SECTION 26 and renumber subsequent sections accordingly.

The committee amendment was read and was adopted by a viva voce vote.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1070** as follows:

In Section 481.034, strike Subsection (a) and (b) (committee printing page 11, lines 2-15) and substitute the following:

"(a) The commissioner shall annually establish the schedules of controlled substances. These annual schedules shall include the complete list of all controlled substances from the previous schedules and modifications in the federal schedules of controlled substances as required by (g). [, with the approval of the Texas Board of Health, may add substances to Schedules I through V and delete, or reschedule substances listed in those schedules. The commissioner shall assign a controlled substance to a schedule] Any further additions to and deletions from these schedules, any rescheduling of substance and any other modifications made by the commissioner to these schedules of controlled substances shall be made:

(1) in accordance with [subject to] Section 481.035;

(2) in a manner consistent with this subchapter [481.039]; and

(3) with approval of the Texas Board of Health.

(b) Except for alterations in schedules required by Subsection (g), the commissioner may not make an alteration in a schedule unless the commissioner holds a public hearing on the matter in Austin and obtains approval from the Texas Board of Health."

The amendment was read and was adopted by a viva voce vote.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 2

Amend HB 1070 as follows:

(1) In SECTION 22 of the bill, amended Section 481.128, Health and Safety Code, strike Subsections (a)(4)-(7) (senate committee printing, page 28, lines 25-33), and substitute the following:

(4) prints, manufactures, possesses, or produces a prescription sticker or official [triplicate] prescription form without the approval of the director ~~[Department of Public Safety];~~

(5) delivers or possesses a counterfeit prescription sticker or official [triplicate] prescription form;

(6) refuses an entry into a premise for an inspection authorized by this chapter;

(7) refuses or fails to return a [triplicate] prescription sticker [form] as required by Section 481.075(k) [481.075(h)]; [or]

(2) Add appropriately numbered SECTIONS to the bill to read as follows:

SECTION __. Section 481.002, Health and Safety Code, is amended by amending Subdivision (47) and adding Subdivisions (51), (52), (53), (54), and (55) to read as follows:

(47) "Official [Triplicate] prescription form" means a ~~[an official Department of Public Safety] prescription form that contains the prescription information required by Section 481.075 and to which is affixed a prescription sticker [used to administer, dispense, prescribe, or deliver to an ultimate user a controlled substance listed in Schedule H].~~

(51) "Patient identification number" means:

(A) a unique number assigned to the person by the department or by an analogous department of another state that appears on the person's driver's license or personal identification certificate;

(B) the registration number assigned to the person under Chapter 13, Election Code;

(C) a unique number assigned to the person by an agency of the United States that appears on the person's social security card, military identification card, passport, visa, work permit, or other identification card;

(D) for a person younger than 18 years of age who has not been issued a document described by Paragraph (A), (B), or (C), the number assigned to the person's parent or guardian that appears on a document described by those paragraphs issued to that parent or guardian; or

(E) for an animal, the number assigned to the animal's owner that appears on a document described by Paragraph (A), (B), (C), or (D).

(52) "Department" means the Department of Public Safety.

(53) "Driver's license" has the meaning assigned that term by Section 521.001, Transportation Code.

(54) "Personal identification certificate" means a certificate issued under Subchapter E, Chapter 521, Transportation Code.

(55) "Prescription sticker" means a prescription sticker issued by the director under Section 481.075.

SECTION __. Subchapter A, Chapter 481, Health and Safety Code, is amended by adding Section 481.003 to read as follows:

Sec. 481.003. RULES. The director may adopt rules to administer and enforce this chapter.

SECTION __. Section 481.064, Health and Safety Code, is amended to read as follows:

Sec. 481.064. [RULES;] REGISTRATION FEES. (a) [The director may adopt reasonable rules:

(b)] The director may charge an annual registration fee of not more than \$25. The director by rule shall set the amount of the fee at the amount that is [~~\$5 for the costs~~] necessary to cover the cost of administering and enforcing [administer] this subchapter [chapter]. Except as provided by Subsection (b) [~~(c)~~], registrants shall pay the fees to the director.

(b) [~~(c)~~] The director may authorize a contract between the department [Department of Public Safety] and an appropriate state agency for the collection and remittance of the fees. The director by rule may provide for remittance of the fees collected by state agencies for the department.

(c) [~~(d)~~] The director shall deposit the collected fees [~~in the state treasury~~] to the credit of the operator's and chauffeur's license account in the general revenue fund. The fees may be used only by the department [Department of Public Safety] in the administration or enforcement of this subchapter [chapter].

SECTION __. Section 481.074, Health and Safety Code, is amended by amending Subsections (a), (b), (c), and (f) and adding Subsections (m) and (n) to read as follows:

(a) A pharmacist may not:

(1) dispense or deliver a controlled substance or cause a controlled substance to be dispensed or delivered under the pharmacist's direction or supervision except under a valid prescription and in the course of professional practice;

(2) fill a prescription that is not prepared or issued as prescribed by this chapter;

(3) permit or allow a person who is not a licensed pharmacist or pharmacist intern to dispense, distribute, or in any other manner deliver a controlled substance even if under the supervision of a pharmacist, except that after the pharmacist or pharmacist intern has fulfilled his professional and legal responsibilities, a nonpharmacist may complete the actual cash or credit transaction and delivery; or

(4) permit the delivery of a controlled substance to any person not known to the pharmacist, the pharmacist intern, or the person authorized by the pharmacist to deliver the controlled substance without first requiring identification of the person taking possession of the controlled substance,

~~except as provided by Subsection (n) [; if the person taking possession of the controlled substance does not have identification and the pharmacist determines that the controlled substance is needed for the immediate well-being of the patient, delivery may be made; this subsection does not prohibit the delivery by mail or authorized delivery person of a controlled substance to a person or the address of the person authorized by prescription to receive that controlled substance].~~

(b) Except in an emergency as defined by rule of the director or as provided by Section 481.075(j) ~~[481.075(g)]~~, a person may not dispense or administer a controlled substance listed in Schedule II without the written prescription of a practitioner on an official prescription [a] form that meets the requirements of and is completed by the practitioner in accordance with Section 481.075, and if the controlled substance is to be dispensed, the practitioner must be registered under Section 481.063. In an emergency, a person may dispense or administer a controlled substance listed in Schedule II on the oral or telephonically communicated prescription of a practitioner. The person who administers or dispenses the substance shall:

(1) if the person is a prescribing practitioner or a pharmacist, promptly comply with Subsection (c); or

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and [shall] include in the written record of the prescription the name, address, and Federal Drug Enforcement Administration number of the prescribing practitioner, all information required to be provided by a [the] practitioner under Section 481.075(e)(1) [481.075(d)], and all information required to be provided by a [the] dispensing pharmacist under Section 481.075(e)(2) [481.075(f)]. The person shall send a copy of the written record to the Department of Public Safety not later than the 30th day after the date the prescription is filled].

(c) Not later than 72 hours after authorizing an emergency oral or telephonically communicated prescription, the prescribing practitioner shall cause a written prescription, completed in the manner required by Section 481.075, to be delivered in person or mailed to the dispensing pharmacist at the pharmacy where the prescription was dispensed. The envelope of a prescription delivered by mail must be postmarked not later than 72 hours after the prescription was authorized. On receipt of the prescription, the dispensing pharmacy shall file the transcription of the telephonically communicated prescription and the pharmacy copy. The pharmacist or the pharmacy that employs the pharmacist shall send all information required by the director, including any information required to complete an official prescription form, to the director by electronic transfer, a universal claim form customarily used by pharmaceutical service providers, or other form approved by the director [to the Department of Public Safety the department's copy] not later than the 30th day after the date the prescription was dispensed.

(f) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to

include individual dosage units. If there is any question about whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner prior to partially filling the prescription. Both the pharmacist and the practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist must record ~~[on]~~ the prescription on an official prescription form and must indicate on the form whether the patient is "terminally ill" or an "LTCF patient." A prescription that is partially filled and does not contain the notation "terminally ill" or "LTCF patient" shall be deemed to have been filled in violation of this Act. For each partial filling, the dispensing pharmacist shall record on the back of ~~[Copy 1 and Copy 2 of]~~ the official prescription form the date of the partial filling, the quantity dispensed, the remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. Prior to any subsequent partial filling, the pharmacist is to determine that the additional partial filling is necessary. The total quantity of Schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed. Schedule II prescriptions for patients in a long-term care facility or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed 30 days from the issue date unless sooner terminated by discontinuance of the medication.

(m) A pharmacist may permit the delivery of a controlled substance by an authorized delivery person, by a person known to the pharmacist, a pharmacist intern, or the authorized delivery person, or by mail to the person or address of the person authorized by the prescription to receive the controlled substance. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years:

(1) the name of the authorized delivery person, if delivery is made by that person;

(2) the name of the person known to the pharmacist, a pharmacist intern, or the authorized delivery person if delivery is made by that person; or

(3) the mailing address to which delivery is made, if delivery is made by mail.

(n) A pharmacist may permit the delivery of a controlled substance to a person not known to the pharmacist, a pharmacist intern, or the authorized delivery person without first requiring the identification of the person to whom the controlled substance is delivered if the pharmacist determines that an emergency exists and that the controlled substance is needed for the immediate well-being of the patient for whom the controlled substance is prescribed. If a pharmacist permits delivery of a controlled substance under this subsection, the pharmacist shall retain in the records of the pharmacy for a period of not less than two years all information relevant to the delivery known to the pharmacist, including the name, address, and date of birth or age of the person to whom the controlled substance is delivered. The pharmacist shall also retain in the records of the pharmacy for a period of not less than two years the patient identification number of the person to whom the controlled substance is delivered if the person has such a number and that number is required by the prescribing practitioner.

SECTION ____ . Section 481.075, Health and Safety Code, is amended to read as follows:

Sec. 481.075. OFFICIAL [TRIPPLICATE] PRESCRIPTION PROGRAM.

(a) A practitioner who prescribes a controlled substance listed in Schedule II shall, except as provided by rule adopted under Section 481.0761, record the prescription on a prescription form that includes the information required by this section and affix to the form a prescription sticker issued by the director under this section [that meets the requirements of Subsection (b)].

(b) Each prescription sticker must be sequentially numbered and produced in a manner that makes impossible removal of the sticker from the prescription form to which it is affixed.

(c) The director [~~Department of Public Safety~~] shall issue prescription stickers [the forms] to practitioners for a fee covering the actual cost of printing, [and] processing [~~the forms~~], and mailing [~~containers, and binders and the actual cost of mailing~~] the stickers [forms] at 100 stickers [forms] a package. Before mailing or otherwise delivering prescription stickers [forms] to a practitioner, the director [~~department~~] shall print on each sticker the number of the sticker and any other information the director determines is necessary [forms the practitioner's name, address, Department of Public Safety registration number, and Federal Drug Enforcement Administration number].

(d) A person may not obtain a [the] prescription sticker [forms] unless the person is a practitioner as defined by Section 481.002(39)(A) or an institutional practitioner.

(e) [(b)] Each prescription form used to prescribe a Schedule II controlled substance must [~~be serially numbered and in triplicate, with the original copy labeled "Copy 1," the duplicate copy labeled "Copy 2," and the triplicate copy labeled "Copy 3."~~] Each form must contain [spaces for]:

(1) information provided by the prescribing practitioner, including:

(A) the date the prescription is written;

(B) [(2)] the date the prescription is filled;

[(3)] the controlled substance [drug] prescribed;

(C) the quantity of controlled substance prescribed, shown numerically followed by the number written as a word;

(D) the intended use of the controlled substance or the diagnosis for which it is prescribed[, the dosage,] and the instructions for use of the substance;

(E) [(4)] the practitioner's name, address, and Federal Drug Enforcement Administration number [of the dispensing pharmacy and the name of the pharmacist who fills the prescription]; and

(F) [(5)] the name, address, date of birth or [and] age, and patient identification number of the person for whom the controlled substance is prescribed;

(2) information provided by the dispensing pharmacist, including the date the prescription is filled; and

(3) the signatures of the prescribing practitioner and the dispensing pharmacist.

(f) [(e)] Not more than one prescription may be recorded on an official [a] prescription form, except as provided by rule adopted under Section 481.0761.

(g) [(d)] Except for oral prescriptions prescribed under Section 481.074(b), the prescribing practitioner shall:

(1) legibly fill in, or direct a designated agent to legibly fill in, on [all three copies of] the official prescription form, each item of information required to be [in the space] provided by the prescribing practitioner under Subsection (e)(1), unless the practitioner determines that:

(A) under rule adopted by the director for this purpose, it is unnecessary for the practitioner or the practitioner's agent to provide the patient identification number [the date the prescription is written]; or

(B) it is not in the best interest of the patient for the practitioner or practitioner's agent to provide information regarding [the drug prescribed, the quantity (shown numerically followed by the number written as a word), instructions for use, and] the intended use of the controlled substance [drug] or the diagnosis for which it [the controlled substance] is prescribed; and

[(C) the name, address, and age of the patient or, in the case of an animal, its owner, for whom the controlled substance is prescribed;]

(2) sign [Copies 1 and 2 of] the official prescription form and give the form [them] to the person authorized to receive the prescription[; and

[(3) retain Copy 3 of the form with the practitioner's records for at least two years after the date the prescription is written].

(h) [(e)] In the case of an oral prescription prescribed under Section 481.074(b), the prescribing practitioner shall give the dispensing pharmacy the information needed to complete the form.

(i) [(f)] Each dispensing pharmacist shall:

(1) fill in on [Copies 1 and 2 of] the official prescription form each item of [in the space provided the] information given orally to the dispensing pharmacy under Subsection (h), the date the prescription is filled, and the dispensing pharmacist's signature [not required to be filled in by the prescribing practitioner or the Department of Public Safety];

(2) [indicate the total quantity dispensed on the face of the triplicate prescription form;

[(3)] retain [Copy 2] with the records of the pharmacy for at least two years;

(A) the official prescription form; and

(B) the name or other patient identification required by Section 481.074(m) or (n); and

(3) [(4)] sign Copy 1 and send all information required by the director, including any information required to complete an official prescription form, [it] to the director by electronic transfer, a universal claim form customarily used by pharmaceutical service providers, or other form approved by the director [Department of Public Safety] not later than the 30th day after the date the prescription is filled or not later than the 30th day after the completion of a prescription dispensed under Section 481.074(f).

(j) ~~(g)~~ A medication order written for a patient who is admitted to a hospital at the time the medication order is written and filled is not required to be on a form that meets the requirements of this section.

(k) ~~(h)~~ Not later than the 30th ~~(seventh)~~ day after the date a practitioner's ~~department~~ ~~[Department of Public Safety]~~ registration number, Federal Drug Enforcement Administration number, or license to practice has been denied, suspended, canceled, surrendered, or revoked, the practitioner shall return to the department all prescription stickers ~~[forms]~~ in the practitioner's possession that ~~[are issued under Subsection (a) and]~~ have not been used for prescriptions.

(l) Each prescribing practitioner:

(1) may use a prescription sticker only to prescribe a controlled substance;

(2) shall date or sign an official prescription form only on the date the prescription is issued; and

(3) shall take reasonable precautionary measures to ensure that a prescription sticker issued to the practitioner is not used by another person to violate this subchapter or a rule adopted under this subchapter.

(m) A pharmacy in this state may fill a prescription for a controlled substance listed in Schedule II issued by a practitioner in another state if:

(1) a substantial share of the pharmacy's business involves the dispensing and mailing of controlled substances;

(2) the prescription is issued by a prescribing practitioner in the other state in the ordinary course of practice; and

(3) the prescription is filled in compliance with a written plan providing the manner in which the pharmacy may fill a Schedule II prescription issued by a practitioner in another state that:

(A) is submitted by the pharmacy to the director; and

(B) is approved by the director in consultation with the Texas State Board of Pharmacy.

(n) This section expires September 1, 2003.

~~[(i) The director may adopt rules to implement this section and Section 481.076.]~~

SECTION __. Section 481.076, Health and Safety Code, is amended to read as follows:

Sec. 481.076. OFFICIAL ~~[TRIPLICATE]~~ PRESCRIPTION INFORMATION. (a) The director may not permit any person to have access to information submitted to the director ~~[Department of Public Safety]~~ under Section 481.075 except:

(1) an investigator ~~[investigators]~~ for the Texas State Board of Medical Examiners, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, or the Texas State Board of Pharmacy; ~~[or]~~

(2) an authorized officer or member ~~[officers]~~ of the department ~~[Department of Public Safety]~~ engaged in the administration, investigation, or enforcement of ~~[suspected criminal violations of]~~ this chapter or another law governing illicit drugs in this state or another state; or

(3) if the director finds that proper need has been shown to the director:

(A) a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(B) a pharmacist or practitioner who is a physician, dentist, veterinarian, or podiatrist and is inquiring about the recent Schedule II prescription history of a particular patient of the practitioner; or

(C) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity [who obtain access with the approval of an investigator listed in Subdivision (1)].

(b) This section does not prohibit the director from creating, using, or disclosing statistical data about information received by the director under this section if the director removes any information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information. [An investigator listed in Subsection (a)(1) shall cooperate with and assist the authorized officers of the Department of Public Safety in obtaining information for investigations of suspected criminal violations of this chapter.]

(c) The director by rule [Department of Public Safety] shall design and implement a system for submission of information to the director by electronic or other means and for retrieval of information submitted to the director [department] under this section and Section 481.075. The director [department] shall use automated information security techniques and devices to preclude improper access to the information. The director shall submit the system design to the Texas State Board of Pharmacy and the Texas State Board of Medical Examiners for review and approval or comment a reasonable time before implementation of the system and shall comply with the comments of those agencies unless it is unreasonable to do so.

(d) Information submitted to the director [Department of Public Safety] under this section may be used only for:

(1) the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(2) [drug-related criminal investigatory or evidentiary purposes or for] investigatory or evidentiary purposes in connection with the functions of an agency listed in Subsection (a)(1); or

(3) dissemination by the director to the public in the form of a statistical tabulation or report if all information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information has been removed.

(e) The director [Department of Public Safety] shall remove from the information retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted under this section to the director [department] not later than the end of the 12th calendar month after the month in which the identity is entered into the system. However, the director [department] may retain a patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this section until the 30th day after the end of the month in which the necessity for retention of the identity ends.

(f) If the director permits access to information under Subsection (a)(2) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify and cooperate with that agency regarding the disposition of the matter before taking action against the person, unless the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(g) If the director permits access to information under Subsection (a)(3)(A) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify that agency of the disclosure of the information not later than the 10th working day after the date the information is disclosed unless:

(1) the person to whom the information is disclosed requests the director to withhold notification to the agency; and

(2) the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(h) If the director withholds notification to an agency under Subsection (g), the director shall notify the agency of the disclosure of the information and the reason for withholding notification when the director determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

(i) Information submitted to the director under Section 481.075 is confidential and remains confidential regardless of whether the director permits access to the information under this section.

(j) This section expires September 1, 2003. [The department shall report semiannually, based on the state fiscal year, to the Legislative Budget Board certifying that this subsection has been complied with and setting forth in detail the results of monthly audits showing that identities have been removed from the system and made irretrievable in compliance with this subsection. The department shall correct any failure to comply with this subsection as soon as practicable after discovery. A person who is responsible for a failure to comply with this subsection is subject to disciplinary action, including dismissal.]

SECTION __. Subchapter C, Chapter 481, Health and Safety Code, is amended by adding Section 481.0761 to read as follows:

Sec. 481.0761. RULES; AUTHORITY TO CONTRACT. (a) The director shall consult with the Texas State Board of Pharmacy and by rule establish and revise as necessary a standardized database format that may be used by a pharmacy to transmit the information required by Section 481.075(i) to the director electronically or to deliver the information on storage media, including disks, tapes, and cassettes.

(b) The director shall consult with the Texas Department of Health, the Texas State Board of Pharmacy, and the Texas State Board of Medical Examiners and by rule may:

(1) remove a controlled substance listed in Schedule II from the official prescription program, if the director determines that the burden imposed by the program substantially outweighs the risk of diversion of the particular controlled substance; or

(2) return a substance previously removed from Schedule II to the official prescription program, if the director determines that the risk of diversion substantially outweighs the burden imposed by the program on the particular controlled substance.

(c) The director by rule may:

(1) permit more than one prescription to be administered or dispensed and recorded on one official prescription form;

(2) remove from or return to the official prescription program any aspect of a practitioner's or pharmacist's hospital practice, including administering or dispensing;

(3) waive or delay any requirement relating to the time or manner of reporting;

(4) establish compatibility protocols for electronic data transfer hardware, software, or format;

(5) establish a procedure to control the release of information under Sections 481.075 and 481.076; and

(6) establish a minimum level of prescription activity below which a reporting activity may be modified or deleted.

(d) The director by rule shall authorize a practitioner to determine whether it is necessary to obtain a particular patient identification number and to provide that number on the official prescription form.

(e) In adopting a rule relating to the electronic transfer of information under this subchapter, the director shall consider the economic impact of the rule on practitioners and pharmacists and, to the extent permitted by law, act to minimize any negative economic impact, including the imposition of costs related to computer hardware or software or to the transfer of information. The director may not adopt a rule relating to the electronic transfer of information under this subchapter that imposes a fee in addition to the fee authorized by Section 481.064.

(f) The director may authorize a contract between the department and another agency of this state or a private vendor as necessary to ensure the effective operation of the official prescription program.

(g) This section expires September 1, 2003.

SECTION __. Section 481.127(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person ~~[intentionally or]~~ knowingly gives, permits, or obtains unauthorized access to information submitted to the director ~~[Department of Public Safety]~~ under Section 481.075.

SECTION __. Section 481.129(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly ~~[or intentionally]~~:

(1) distributes as a registrant or dispenser a controlled substance listed in Schedule I or II, unless the person distributes the controlled substance under an order form as required by Section 481.069;

(2) uses in the course of manufacturing, prescribing, or distributing a controlled substance a registration number that is fictitious, revoked, suspended, or issued to another person;

(3) uses a ~~[triplicate]~~ prescription ~~sticker~~ ~~[form]~~ issued to another person to prescribe a Schedule II controlled substance;

(4) possesses or attempts to possess a controlled substance:

(A) by misrepresentation, fraud, forgery, deception, or subterfuge;

(B) through use of a fraudulent prescription form; or

(C) through use of a fraudulent oral or telephonically communicated prescription; or

(5) furnishes false or fraudulent material information in or omits material information from an application, report, record, or other document required to be kept or filed under this chapter.

SECTION __. Section 552.118, Government Code, is amended to read as follows:

Sec. 552.118. EXCEPTION: OFFICIAL ~~[TRIPPLICATE]~~ PRESCRIPTION FORM. Information is excepted from the requirements of Section 552.021 if it is information on or derived from an official ~~[a-triplicate]~~ prescription form filed with the director of the Department of Public Safety under Section 481.075, Health and Safety Code.

SECTION __. Section 3.06(d)(6)(J)(i), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(i) A physician may delegate to a physician assistant offering obstetrical services and certified by the board as specializing in obstetrics or an advanced nurse practitioner recognized by the Texas State Board of Nurse Examiners as a nurse midwife the act or acts of administering or providing controlled substances to the nurse midwife's or physician assistant's clients during intra-partum and immediate post-partum care. The physician ~~may~~ ~~[shall]~~ not delegate the use of a prescription sticker or the use or issuance of an official ~~[a-triplicate]~~ prescription form under ~~[the triplicate prescription program;]~~ Section 481.075, Health and Safety Code.

(3) Strike SECTIONS 29, 30, and 31 of the bill and substitute the following appropriately numbered SECTIONS to the bill:

SECTION __. Except as otherwise provided by this Act, this Act takes effect January 1, 1998.

SECTION __. Not later than December 1, 1997, the commissioner of public health shall file with the secretary of state for publication in the Texas Register a list of substances designated in Schedules I through V under Subchapter B, Chapter 481, Health and Safety Code, as amended by this Act. The list shall take effect January 1, 1998. A schedule in effect immediately before the effective date of this Act continues in effect until January 1, 1998. This section takes effect September 1, 1997.

SECTION __. The changes in law made by this Act relating to a prescription written under the triplicate prescription program take effect September 1, 1999, except that Section 481.0761, Health and Safety Code, as added by this Act, takes effect September 1, 1997. The director of the Department of Public Safety by rule may permit the use of triplicate or single prescription forms during a period of transition, but not after March 1, 1999.

SECTION __. The change in law made by this Act does not affect any retention, use, or destruction requirement of Section 481.075 or 481.076,

Health and Safety Code, that relates to a prescription written under the triplicate prescription program before September 1, 1999. A provision of those sections relating to retention of a triplicate record by a practitioner or pharmacist or the use or destruction of information obtained through the triplicate prescription program by the Department of Public Safety continues in effect for the purpose of governing the disposition of any triplicate prescription record or any information arising from a triplicate prescription written before September 1, 1999.

SECTION ____ (a) Except as provided by Subsection (b) of this section, a change in law made by this Act applies only to an offense committed on or after September 1, 1997. An offense committed before September 1, 1997, is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(b) A change in law made by this Act to Section 481.127(a), 481.128(a), or 481.129(a), Health and Safety Code, applies only to an offense committed under that section on or after September 1, 1999. An offense committed under one of those sections before September 1, 1999, is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

(c) For purposes of Subsection (a) or (b) of this section, an offense was committed before September 1, 1997, or before September 1, 1999, if any element of the offense occurred before that date.

SECTION ____ The change in law made by this Act to Section 3.06(d)(6)(J)(i), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), does not affect the dispensing of a Schedule II controlled substance by a pharmacist to:

(1) a certified registered nurse anesthetist for use in providing anesthesia or anesthesia-related services under the Medical Practice Act; or

(2) a certified nurse midwife or a physician assistant certified by the Texas State Board of Medical Examiners as specializing in obstetrics for use in administering a Schedule II controlled substance to a client during the provision of intra-partum and immediate postpartum care under the Medical Practice Act.

(4) Renumber the existing SECTIONS of the bill accordingly.

The amendment was read and was adopted by a viva voce vote.

HB 1070 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1070 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1070** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1070 was read third time and was passed by a viva voce vote.

GUEST PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Bexar County Judge Cyndi Taylor Krier.

The Senate welcomed Judge Krier.

HOUSE BILL 2063 ON SECOND READING

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2063, Relating to coverage under a group health benefit plan for diagnosis and treatment of certain conditions affecting the temporomandibular joint.

The bill was read second time.

(Senator Brown in Chair)

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2063** follows:

(1) In Section 2(a)(1)(A)(iv), Article 21.53A, Insurance Code, as added by SECTION 1 of the bill (page 1, line 31, Senate Committee Report Printing), strike "Chapter 22 of this code" and substitute "Chapter 22 of this code; or".

(2) In Section 2(a)(1)(A), Article 21.53A, Insurance Code, as added by SECTION 1 of the bill (page 1, lines 32-33, Senate Committee Report Printing), strike Subparagraph (v).

(3) In Section 2(a)(1)(A), Article 21.53A, Insurance Code, as added by SECTION 1 of the bill, (page 1, line 34, Senate Committee Report Printing), strike "(vi)" and substitute "(v)".

(4) In Section 2(b)(1), Article 21.53A, Insurance Code, as added by SECTION 1 of the bill, (page 2, between lines 5 and 6, Senate Committee Report Printing), insert a new Subdivision (4) to read as follows and renumber the subsequent subdivisions appropriately:

"(4) a small employer plan written under Chapter 26 of this code;".

The amendment was read and was adopted by a viva voce vote.

HB 2063 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2063 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2063** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 2063 was read third time and was passed by a viva voce vote.

SENATE CONCURRENT RESOLUTION 103

Senator Sibley offered the following resolution:

WHEREAS, **SB 1913** has passed the Texas Senate and the Texas House of Representatives and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the senate and the house of representatives is necessary; now, therefore, be it

RESOLVED by the 75th Legislature, That the governor be hereby requested to return **SB 1913** to the Senate for further consideration; and, be it further

RESOLVED, That the action of the President of the Senate and the Speaker of the House in signing **SB 1913** be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

The resolution was read.

On motion of Senator Sibley and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1384 ON SECOND READING**

On motion of Senator Haywood and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1384, Relating to counseling for certain persons in a suit for divorce or a suit affecting the parent-child relationship.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1384 ON THIRD READING**

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1384** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

CSSB 1384 was read third time and was passed by a viva voce vote.

HOUSE BILL 1439 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1439, Relating to use of financial assistance granted to persons with dependent children.

The bill was read second time.

Senator Duncan offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1439** by striking SECTIONS 2 and 3, and substitute the following in lieu thereof:

"SECTION 2. Subchapter B, Chapter 31, Human Resources Code, is amended by adding Section 31.0341 to read as follows:

Sec. 31.0341. JUDICIAL REVIEW. (a) Except as provided by this section, Sections 2001.142, 2001.144, 2001.145, and 2001.146, Government Code, and Subchapters G and H, Chapter 2001, Government Code, govern an appeal of a department decision under Section 31.034 by an applicant for or a recipient of financial assistance under this chapter.

(b) The cost of preparing the record and the transcript may not be charged to the applicant for or recipient of the assistance.

(c) An appeal described by Subsection (a) takes precedence over all civil cases except workers' compensation and unemployment cases.

(d) The appellee is the department.

SECTION 3. Section 2001.223, Government Code, is amended to read as follows:

Sec. 2001.223. EXCEPTIONS FROM DECLARATORY JUDGMENT, COURT ENFORCEMENT, AND CONTESTED CASE PROVISIONS. Section 2001.038 and Subchapters C through H do not apply to:

(1) the granting, payment, denial, or withdrawal of ~~financial or~~ medical or nutritional assistance or benefits under service programs of the Texas Department of Human Services;

(2) action by the Banking Commissioner or the Finance Commission of Texas regarding the issuance of a state bank charter for a bank to assume the assets and liabilities of a financial institution that the commissioner considers to be in hazardous condition as defined by Section 1.002(a), Texas Banking Act;

(3) a hearing or interview conducted by the Board of Pardons and Paroles or the pardons and paroles division of the Texas Department of Criminal Justice relating to the grant, rescission, or revocation of parole or other form of administrative release; or

(4) the suspension, revocation, or termination of the certification of a breath analysis operator or technical supervisor under the rules of the Department of Public Safety.

SECTION 4. Subchapter I, Chapter 2001, Government Code, is amended by adding Section 2001.227 to read as follows:

Sec. 2001.227. EXCEPTION FROM DECLARATORY JUDGMENT AND CONTESTED CASE PROVISIONS. Except as provided by Section 31.0341, Human Resources Code, Section 2001.038 and Subchapters C-F do not apply to the granting, payment, denial, or withdrawal of financial assistance under Chapter 31, Human Resources Code, by the Texas Department of Human Services.

SECTION 5. This Act takes effect September 1, 1997, and applies only to an appeal of a final decision rendered by the Texas Department of Human

Services on or after that date. A final decision rendered by the department before the effective date of this Act is governed by the law in effect on the date the decision was rendered, and the former law is continued in effect for that purpose.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended."

The committee amendment was read.

On motion of Senator West and by unanimous consent, Committee Amendment No. 1 was tabled by a viva voce vote.

HB 1439 was passed to third reading by a viva voce vote.

HOUSE BILL 1439 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1439** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1439 was read third time and was passed by a viva voce vote.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, May 21, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 281, Directing the General Services Commission to request that the Texas Jewelers Association conduct a design contest.

SB 15, Relating to the maximum tax rate that may be levied by the Live Oak Underground Water Conservation District to pay maintenance and operating expenses.

SB 58, Relating to continued participation by certain AFDC recipients in the jobs opportunities and basic skills (JOBS) training program.

SB 60, Relating to parenting skills training for certain AFDC recipients.

SB 68, Relating to the priority given to the hearing of certain matters by trial courts.

SB 141, Relating to the power of a county to seize and sell abandoned real property for delinquent ad valorem taxes.
(Committee Substitute)

SB 224, Relating to the authority of county judges to issue certain search warrants.

SB 337, Relating to sanctions that may be imposed on the holder of an alcoholic beverage permit or license.
(Amended)

SB 397, Relating to the qualifications for an investment officer of a regional planning commission, council of government, or similar regional planning agency.

SB 467, Relating to prohibiting a peace officer or attorney representing the state from requiring that certain complainants submit to polygraph examinations.

SB 531, Relating to certain officers' duties for driver's license suspension.

SB 550, Relating to emergency protective orders.

SB 612, Relating to a defense to prosecution for endangering a child.

SB 617, Relating to the practice and conduct of registered nurses.
(Committee Substitute)

SB 660, Relating to the operation of a county sick leave pool program.

SB 745, Relating to a special license plate for a mother of a person who died while serving in the United States armed forces.
(Committee Substitute)

SB 910, Relating to the use of electronic transfer and data matching in connection with certain benefits programs.
(Committee Substitute)

SB 913, Relating to the operation and oversight of the medically underserved community-state matching incentive program.

SB 938, Relating to expanded hours of operation under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

SB 961, Relating to state formula funding to an institution of higher education and tuition costs for certain resident doctoral students.

SB 1001, Relating to the offense of possessing a firearm, illegal knife, club, or prohibited weapon in a place where weapons are prohibited.
(Amended)

SB 1041, Relating to the creation, powers, and duties of the International Trade Task Force and the promotion and development of international trade.

SB 1050, Relating to artificial processes affecting ownership of coastal public land.

SB 1262, Relating to the provision of employment and training for certain persons on public assistance.
(Amended)

SB 1284, Relating to regulation of new or renovated bedding; providing penalties.
(Amended)

SB 1297, Relating to disciplinary procedures and peer review for certain medical practitioners; providing administrative penalties.

SB 1316, Relating to fees of office and expenses of water district directors.

SB 1354, Relating to the Board for Lease of University Lands, the leasing, management, and administration of certain public lands, and related fees and penalties.
(Amended)

SB 1478, Relating to the issuance of a marriage license.

SB 1546, Relating to the operation of a crime stoppers organization.

SB 1579, Relating to the requisition for the return of a person charged with crime in this state.

SB 1594, Relating to the enforcement and collection of child support; providing a penalty.

SB 1676, Relating to the terms of office of the members of and the composition of the Crime Stoppers Advisory Council.

SB 1728, Relating to procedures in death penalty cases.

SB 1805, Relating to the adoption or increase of local sales and use taxes by a municipality or county for which previous elections adopting such taxes were invalid.

SB 1824, Relating to the formation of an integrated health care system by the El Paso County Hospital District and a medical school.
(Committee Substitute)

SB 1827, Relating to characteristics of a defendant that shall not be used by a judge to deny community supervision.

SB 1835, Relating to the punishment for the offense of unlawful restraint.

SB 1888, Relating to the repeal of the authority to abolish certain conservation and reclamation districts that become part of more than one municipality.
(Committee Substitute)

SB 1938, Relating to the Hays County juvenile probation department.

SCR 101, Requesting the governor to return Senate Bill No. 1568 to the Senate for further consideration.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
HOUSE BILL 2146 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 2146, Relating to studying minority participation in public higher education.

The bill was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2146 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2146** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Nelson.

Absent-excused: Carona.

CSHB 2146 was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Wednesday, May 21, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE
FOLLOWING MEASURES:**

HB 65 (Viva-voce vote)
HB 344 (Viva-voce vote)
HB 492 (Viva-voce vote)
HB 762 (Viva-voce vote)
HB 767 (Viva-voce vote)
HB 776 (Viva-voce vote)
HB 818 (139 Yeas 0 Nays 2 Present-not voting)
HB 836 (139 Yeas 0 Nays 2 Present-not voting)
HB 993 (Viva-voce vote)
HB 1016 (Viva-voce vote)
HB 1133 (Viva-voce vote)
HB 1144 (Viva-voce vote)
HB 1145 (Viva-voce vote)
HB 1170 (Viva-voce vote)
HB 1401 (Viva-voce vote)
HB 2071 (Viva-voce vote)
HB 2215 (Viva-voce vote)
HB 2335 (144 Yeas 1 Nay 0 Present-not voting)
HB 2382 (Viva-voce vote)
HB 2446 (144 Yeas 0 Nays 1 Present-not voting)
HB 2525 (Viva-voce vote)
HB 2703 (Viva-voce vote)
HB 2848 (145 Yeas 0 Nays 1 Present-not voting)
HB 3025 (Viva-voce vote)
HB 3170 (Viva-voce vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 580

House Conferees: Coleman - Chair/Glaze/Jones, Delwin/Maxey/McClendon

HB 2798

House Conferees: Marchant - Chair/Ehrhardt/Giddings/Smith/Solomons

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

SB 361

House Conferees: Gray - Chair/Glaze/Hirschi/Janek/Telford

SB 932

House Conferees: Oliveira - Chair/Luna, Vilma/Marchant/Patterson, L.P. "Pete"/Siebert

SB 1310

House Conferees: Janek - Chair/Flores/Isett/Moffat/Pitts

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 29 (Viva-voce vote)

SB 758 (Viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Luna was recognized and introduced to the Senate Efrain Gonzalez, Jr., New York State Senator and President of the National Hispanic Caucus of State Legislators.

The Senate welcomed Senator Gonzalez.

HOUSE BILL 455 ON SECOND READING

Senator West asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 455, Relating to objection to a visiting judge.

There was objection.

Senator West then moved to suspend the regular order of business and take up **HB 455** for consideration at this time.

The motion prevailed by the following vote: Yeas 15, Nays 7.

Yeas: Barrientos, Duncan, Ellis, Fraser, Galloway, Harris, Haywood, Lucio, Madla, Moncrief, Ogden, Patterson, Shapleigh, West, Zaffirini.

Nays: Lindsay, Luna, Nelson, Ratliff, Shapiro, Sibley, Wentworth.

Absent: Armbrister, Bivins, Brown, Cain, Gallegos, Nixon, Truan, Whitmire.

Absent-excused: Carona.

HB 455 was read second time.

(Senator Sibley in Chair)

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 455** by striking everything below the enacting clause and replacing it with the following:

SECTION 1. Sections 74.053, Government Code, are amended to read as follows:

(a) When a judge is assigned under this chapter the presiding judge shall, if [~~it is reasonable and~~] practicable [~~and if time permits~~], give notice of the assignment to each attorney representing a party to the case that is to be heard in whole or part by the assigned judge.

(b) If a party to a civil or criminal case files a timely objection to the assignment, the judge shall not hear any part of the case. Except as provided by Subsection ~~[(d)]~~ (e), each party to the case is ~~[only]~~ entitled to only one objection under this section for that case. This subsection applies in a criminal case only if the criminal case is before a court in a county having a population of more than 500,000.

(c) If notice is given at least twenty-four hours prior to the hearing or trial, an objection under this section must be filed before the first hearing or trial, including pretrial hearings, over which the assigned judge is to preside. If notice has not been given, either party may orally or in writing object to the assignment at the beginning of the first hearing or trial over which the assigned judge is to preside.

(d) Allowing any judge to conduct any hearing does not waive the right to object pursuant to this section, except that if a hearing before an assigned judge results in an order, no objection may be made to such judge's assignment by the presiding judge to hear any motion to reconsider, revise, or amend that order.

(e) A former judge or justice who was not a retired judge may not sit in a case if either party objects to the judge or justice.

SECTION 2. This Act takes effect September 1, 1997, and applies only to the assignment of a judge or justice made on or after the effective date of this Act. An assignment made before the effective date of this Act is governed by the law in effect at the time the assignment was made, and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator West and by unanimous consent, further consideration of **HB 455** was postponed to a time certain of 5:30 p.m. today.

Question—Shall **HB 455** as amended be passed to third reading?

PROCLAMATION FROM THE GOVERNOR

The following Proclamation from the Governor was read and was filed with the Secretary of the Senate:

PROCLAMATION BY THE

GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, George W. Bush, Governor of Texas, do hereby disapprove and veto **SB 1913** because of the following objections:

After conferring with the Commissioner of Insurance, I am vetoing **SB 1913** because this bill may permit the unregulated sale of insurance, including fire, theft and other casualties normally covered by property and casualty insurance.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 21st day of May, 1997.

/s/George W. Bush
Governor of Texas

HOUSE BILL 2255 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2255, Relating to the licensing of certain dentists and dental hygienists.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2255 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2255** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 2255 was read third time and was passed by a viva voce vote.

HOUSE BILL 1800 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1800, Relating to state-administered assessment instruments for students in special education programs.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1800 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1800** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1800 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1028 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1028, Relating to strategic partnership agreements between certain local governments.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1028** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION 1. Subchapter B, Chapter 43, Local Government Code, is amended by adding Sections 43.0201 and 43.0202 to read as follows:

SECTION _____. Subchapter D, Chapter 43, Local Government Code, is amended by adding Section 43.0752

Sec. 43.0752. STUDY COMMISSION. (a) The Study Commission on strategic partnership agreements is composed of twelve members appointed as follows:

(1) three members of the senate appointed by the lieutenant governor;
(2) three members of the house of representatives appointed by the speaker of the house;

(3) three members appointed by the governor representing municipalities; and

(4) three members appointed by the governor representing municipal utility districts, the unincorporated areas of a county, or the extraterritorial jurisdiction of a municipality.

(b) Each member of the commission serves at the will of the person who appointed the member.

(c) The commission shall elect a presiding officer and assistant presiding officer from its members.

(d) A member of the commission is not entitled to receive compensation for service on the commission.

(e) The commission may accept gifts and grants from any source to be used to carry out a function of the commission.

(f) The commission shall study issues that the commission determines have importance to the implementation of strategic partnership agreements, including the use of the agreements, consideration of the expansion or restriction of the applicability of the agreements, and alternatives to strategic partnership agreements. The commission may:

(1) appoint an advisory committee to assist the commission in studying a specific issue; and

(2) draft proposed legislation to modify existing statutes.

(g) Not later than December 1, 1998, the commission shall issue a report summarizing:

- (1) any hearings conducted by the commission;
- (2) any studies conducted by the commission;
- (3) any legislation proposed by the commission; and
- (4) any other findings and recommendations of the commission.
- (h) The commission shall promptly deliver copies of the report to the lieutenant governor and the speaker of the house.
- (i) The commission shall adopt rules to administer this section.
- (j) The commission is abolished, and this section expires June 1, 1999.

The amendment was read and was adopted by a viva voce vote.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1028** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill appropriately:

SECTION ____ Section 43.0751, Local Government Code, is amended by adding Subsections (n) and (o) to read as follows:

(n) A municipality with a population of 900,000 or more and a district or planned unit development (PUD) are authorized to execute a strategic partnership agreement under this section. The municipality and the district or PUD shall negotiate in good faith. An agreement adopted under this section may provide for the limited-purpose annexation of the district or PUD by the municipality, an agreement in lieu of annexation, or other terms or conditions. A municipality affected by this subsection may not annex a district or PUD before eleven calendar months from the date the municipality receives a request from the district or PUD or the municipality initiates a request to a district or PUD, whichever is earlier, to negotiate strategic partnership agreements under this section unless both parties agree to an earlier annexation date.

(o) A municipality that uses limited-purpose annexation powers under Subsection (n) is not, for the purposes of Subsection (m) or any other law, considered to have or to have exercised limited-purpose annexation powers unless the municipality has specifically adopted those powers in the municipality's charter.

The amendment was read and was adopted by a viva voce vote.

HB 1028 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1028 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1028** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1028 was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

Wednesday, May 21, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 353, Relating to the continuation and functions of the adjutant general's department.
(Amended)

SB 370, Relating to the continuation and functions of the Texas Department of Transportation, the abolition of the Texas Turnpike Authority, and the creation of regional tollway authorities; authorizing the issuance of bonds and the imposition of taxes; granting the power of eminent domain; and providing civil penalties.
(Committee Substitute/Amended)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

HOUSE BILL 697 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 697, Relating to contracting by court reporters.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 697** as follows:

(1) In SECTION 2, Subchapter C, Chapter 52, Government Code, proposed Section 52.034 (a)(1) (committee printing, page 1, line 45), strike "undermines" and substitute "results in".

(2) In SECTION 2, Subchapter C, Chapter 52, Government Code, proposed Section 52.034 (a)(4) (committee printing, page 1, lines 51-52), strike "or partially exclusive".

The amendment was read.

On motion of Senator Brown and by unanimous consent, Floor Amendment No. 1 was withdrawn.

HB 697 was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Shapiro asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 697 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 697** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Shapiro.

Absent-excused: Carona.

On motion of Senator Brown and by unanimous consent, further consideration of **HB 697** was postponed.

Question—Shall **HB 697** be read third time?

HOUSE BILL 3563 ON SECOND READING

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3563, Relating to procedures to issue rental car companies limited licenses as insurance agents.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3563**, SECTION 1, page 1, line 14, by striking the word "may" and inserting the word "shall".

The amendment was read and was adopted by a viva voce vote.

Senator Cain offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3563**, SECTION 2, page 3, line 22, by inserting the following after "1997" and before the "." (period) at the end of that sentence:
and applies to an insurance policy that is delivered, issued for delivery, or renewed on or after September 1, 1997. A policy delivered, issued for delivery, or renewed before September 1, 1997, is governed by the law as it existed prior to the effective date of this Act.

The amendment was read and was adopted by a viva voce vote.

HB 3563 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3563 ON THIRD READING

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3563** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 3563 was read third time and was passed by a viva voce vote.

HOUSE BILL 3087 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3087, Relating to the protection of defendants against vexatious litigants.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3087** as follows:

(1) In SECTION 1, amend Section 11.051, Civil Practice and Remedies Code (committee printing, page 1, lines 34-35), by striking "at any time until final judgment is entered" and substituting "on or before the 90th day after the date the defendant files the original answer or makes a special appearance".

(2) In SECTION 1, amend Section 11.052, Civil Practice and Remedies Code (committee printing, page 1, lines 40-41), by striking "before the date the trial starts".

The amendment was read and was adopted by a viva voce vote.

HB 3087 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3087 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3087** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 3087 was read third time and was passed by a viva voce vote.

HOUSE BILL 1507 ON SECOND READING

Senator Ratliff asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

HB 1507, Relating to limiting the liability of certain persons involved in an issuance of securities by a small business.

There was objection.

Senator Ratliff then moved to suspend the regular order of business and take up **HB 1507** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 2, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna.

Present-not voting: Ellis.

Absent: Cain, Gallegos, Lucio, Madla, Truan.

Absent-excused: Carona.

HB 1507 was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Barrientos and Luna asked to be recorded as voting "Nay" on the passage of the bill to third reading.

Senator Ellis asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

HOUSE BILL 1507 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1507** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2, Present-not voting 1.

Yeas: Armbrister, Bivins, Brown, Cain, Duncan, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Luna.

Present-not voting: Ellis.

Absent-excused: Carona.

HB 1507 was read third time and was passed by the following vote: Yeas 27, Nays 2, Present-not voting 1. (Same as previous roll call)

HOUSE BILL 697 ON THIRD READING

The Presiding Officer laid before the Senate **HB 697** on its third reading and final passage. The Constitutional Three-day Rule was suspended and further consideration was postponed.

HB 697, Relating to contracting by court reporters.

Question—Shall **HB 697** be read third time?

HB 697 was read third time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 697** as follows:

In SECTION 2, Subchapter C, Chapter 52, Government Code, proposed Section 52.034(a)(4) (committee printing, page 1, lines 51-52), strike "or partially exclusive".

The amendment was read and was adopted by unanimous consent.

HB 697 as amended was finally passed by a viva voce vote.

RECORD OF VOTE

Senator Shapiro asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 455 ON SECOND READING

The Presiding Officer laid before the Senate **HB 455** on its second reading and passage to third reading. The bill was read second time, amended, and further consideration was postponed to a certain of 5:30 p.m. today.

HB 455, Relating to objection to a visiting judge.

Question—Shall **HB 455** as amended be passed to third reading?

On motion of Senator West and by unanimous consent, further consideration of **HB 455** was again postponed.

Question—Shall **HB 455** as amended be passed to third reading?

HOUSE BILL 1585 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1585, Relating to liability insurance for motor vehicles operated by law enforcement officers of a political subdivision.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1585 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1585** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

HB 1585 was read third time and was passed by a viva voce vote.

(Senator Brown in Chair)

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 165 ON SECOND READING**

Senator Luna asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 165, Relating to the interest on delinquent child support payments.

There was objection.

Senator Luna then moved to suspend the regular order of business and take up **CSSB 165** for consideration at this time.

The motion was lost by the following vote: Yeas 9, Nays 14.

Yeas: Cain, Gallegos, Lindsay, Luna, Nelson, Ogden, Shapleigh, Wentworth, Zaffirini.

Nays: Brown, Duncan, Ellis, Fraser, Harris, Haywood, Lucio, Moncrief, Nixon, Ratliff, Shapiro, Sibley, Truan, Whitmire.

Absent: Armbrister, Barrientos, Bivins, Galloway, Madla, Patterson, West.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1418 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

CSHB 1418, Relating to the regulation of motor carriers of household goods; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1418 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1418** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

CSHB 1418 was read third time and was passed by a viva voce vote.

SENATOR ANNOUNCED PRESENT

Senator Carona, who had previously been recorded as "Absent-excused," was announced "Present."

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1836**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 20, 1997

Honorable Bob Bullock
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1836** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA
SHAPIRO
RATLIFF
GALLEGOS

SIEBERT
YARBROUGH
GOOLSBY

On the part of the Senate On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2692 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **HB 2692**. The Conference Committee Report was read and was filed with the Senate on Monday, May 19, 1997.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2380 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 2380, Relating to the abolition of unnecessary governmental entities.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2380** by deleting Article 2 in its entirety.

The amendment was read and was adopted by a viva voce vote.

HB 2380 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2380 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2380** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 2380 was read third time and was passed by a viva voce vote.

(Senator Ratliff in Chair)

HOUSE BILL 3086 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 3086, Relating to statutory probate court judges.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3086** as follows:

On page 2 of the committee printing between lines 47 and 48 insert the following and renumber the subsequent sections appropriately:

"SECTION 3. Section 5, Texas Probate Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding any other law, a statutory county court created under Chapter 25, Government Code, that has the jurisdiction of a statutory probate court on August 31, 1997, retains that jurisdiction after that date. This subsection expires August 31, 1999.

SECTION 4. (a) An interim committee is created to study the statutory probate system and to determine the appropriate jurisdiction of probate courts in this state.

(b) The committee consists of six members, of whom:

(1) three shall be appointed by the lieutenant governor from the members of the Senate Committee on Jurisprudence; and

(2) three shall be appointed by the speaker of the house of representatives from the members of the House Committee on Judicial Affairs.

(c) The presiding officers appointing the members of the committee shall each appoint a presiding officer from among the members appointed to the committee.

(d) The committee shall convene at the call of the two presiding officers.

(e) The committee shall study the statutory probate system of this state and the jurisdiction of the various courts with probate jurisdiction and shall make recommendations concerning the appropriate jurisdiction of those courts.

(f) Not later than February 1, 1999, the committee shall report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the members of the 76th Legislature.

(g) Not later than the 15th day after the effective date of this Act, the lieutenant governor and the speaker of the house of representatives shall appoint the members of the interim committee created under this section."

The amendment was read and was adopted by a viva voce vote.

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3086** by inserting the following appropriately numbered SECTION in the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION __. Section 25.0221, Government Code, is amended to read as follows:

Sec. 25.0221. **BRAZORIA COUNTY.** Brazoria County has the following statutory probate courts and statutory county courts:

(1) County Court at Law No. 1 and Probate Court of Brazoria County;

(2) County Court at Law No. 2 and Probate Court of Brazoria County; and

(3) County Court at Law No. 3 and Probate Court of Brazoria County.

The amendment was read.

On motion of Senator Patterson and by unanimous consent, Floor Amendment No. 2 was withdrawn.

HB 3086 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3086 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3086** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 3086 was read third time and was passed by a viva voce vote.

SENATE RESOLUTION 799

Senator Shapleigh offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 75th Legislature, Regular Session, 1997, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 758** to consider and take action on the following matters:

1. Senate Rule 12.03(4) is suspended to permit the committee to add a new SECTION 1 of the bill to read as follows:

SECTION 1. Chapter 28, Penal Code, is amended by adding Section 28.08 to read as follows:

Sec. 28.08. GRAFFITI. (a) A person commits an offense if with aerosol paint or an indelible marker and without the effective consent of the owner the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner.

(b) Except as provided by Subsection (d), an offense under this section is:

(1) a Class B misdemeanor if the amount of pecuniary loss is less than \$500;

(2) a Class A misdemeanor if the amount of pecuniary loss is \$500 or more but less than \$1,500;

(3) a state jail felony if the amount of pecuniary loss is \$1,500 or more but less than \$20,000;

(4) a felony of the third degree if the amount of pecuniary loss is \$20,000 or more but less than \$100,000;

(5) a felony of the second degree if the amount of pecuniary loss is \$100,000 or more but less than \$200,000; or

(6) a felony of the first degree if the amount of pecuniary loss is \$200,000 or more.

(c) When more than one item of tangible property, belonging to one or more owners, is marked in violation of this section pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the marking of the property may be aggregated in determining the grade of the offense.

(d) An offense under this section is a state jail felony if the marking is made on a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is less than \$20,000.

(e) In this section:

(1) "Aerosol paint" means an aerosolized paint product.

(2) "Indelible marker" means a device that makes a mark with a paint or ink product that is specifically formulated to be more difficult to erase, wash out, or remove than ordinary paint or ink products.

Explanation: This change is necessary to more precisely define the conduct that the bill is intended to prohibit.

2. Senate Rule 12.03(2) is suspended to permit the committee to add a new SECTION 2 to the bill to read as follows:

SECTION 2. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0171 to read as follows:

Art. 102.0171. COURT COSTS: GRAFFITI ERADICATION FUNDS.

(a) A defendant convicted of an offense under Section 28.08, Penal Code, in a county court, county court at law, or district court shall pay a \$5 graffiti eradication fee as a cost of court.

(b) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(c) The clerks of the respective courts shall collect the costs and pay them to the county treasurer or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county graffiti eradication fund. A fund designated by this subsection may be used only to:

(1) repair damage caused by the commission of offenses under Section 28.08, Penal Code;

(2) provide educational and intervention programs designed to prevent individuals from committing offenses under Section 28.08, Penal Code; and

(3) provide to the public rewards for identifying and aiding in the apprehension and prosecution of offenders who commit offenses under Section 28.08, Penal Code.

(d) The county graffiti eradication fund shall be administered by or under the direction of the commissioners court.

Explanation: This addition is necessary to omit text referring to a cost on conviction of a Class C graffiti misdemeanor, which no longer exists as a possible punishment for a graffiti offense.

The resolution was read and was adopted by the following vote:
Yeas 31, Nays 0.

HOUSE BILL 1779 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1779, Relating to the Real Estate Research Center.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1779 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1779** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 1779 was read third time and was passed by a viva voce vote.

HOUSE BILL 1645 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1645, Relating to cancellation of the voter registrations of persons who are not United States citizens; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1645 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1645** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, Whitmire, Zaffirini.

Nays: Barrientos, Gallegos, West.

HB 1645 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Barrientos, Gallegos, and West asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, May 21, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 35, Relating to operating a vehicle while intoxicated or under the influence of alcohol by a minor and other actions of a minor concerning the acquisition, possession, and use of alcohol; providing penalties.
(Committee Substitute/Amended)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 1136 ON SECOND READING**

Senator Wentworth asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 1136, Relating to the authority of a political subdivision to prepare and implement a regional habitat conservation plan or habitat conservation plan or to enter into a conservation agreement.

There was objection.

Senator Wentworth then moved to suspend the regular order of business and take up **CSSB 1136** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, Whitmire.

Nays: Barrientos, Ellis, Gallegos, Moncrief, Shapleigh, Truan, West, Zaffirini.

Absent: Armbrister, Luna.

CSSB 1136 was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1136** as follows:

(1) In Section 3 of the bill, in added Section 83.011(6), Parks and Wildlife Code (committee printing, page 1, line 51), after "permit" insert "that does not require the regulation of non-habitat preserve land".

(2) In Section 3 of the bill, in added Section 83.018(e), Parks and Wildlife Code (committee printing page 6, line 55), between "participants" and "may" insert "of a regional habitat conservation plan that received a federal permit on or before January 1, 1997".

The amendment was read and was adopted by a viva voce vote.

CSSB 1136 as amended was passed to engrossment by a viva voce vote.

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

Senator Harris announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held upon conclusion of the daily session tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

MEMORIAL RESOLUTIONS

SCR 102 - by Whitmire, Gallegos: In memory of the life of Assistant Fire Chief Dennis W. Holder of Houston.

SR 790 - by Luna: In memory of John C. Rodriguez of San Antonio.

HCR 283 - (Whitmire): In memory of Donna Ringoringo.

WELCOME AND CONGRATULATORY RESOLUTIONS

SCR 104 - by Whitmire, Bivins, Duncan: Congratulating Rita Tyson of Cochran County.

SR 786 - by West: Commending the Reverend A. R. Evans.

SR 787 - by Whitmire: Congratulating Laura Bisso.

SR 788 - by Whitmire: Congratulating Richard Houston Perry of Dripping Springs.

SR 789 - by Shapiro: Congratulating Dr. Justin Wakeland of Frisco.

SR 791 - by Barrientos: Commending the staff of IBM-Austin.

SR 792 - by Shapleigh: Commending Cephus S. "Dusty" Rhodes of El Paso.

SR 793 - by Shapleigh: Commending Donald Noe of El Paso.

SR 794 - by Shapleigh: Commending Chelio Acosta of El Paso.

SR 795 - by Shapleigh: Commending Salvador Balcorta of El Paso.

SR 796 - by Shapleigh: Congratulating Las Chulas del Barrio.

SR 797 - by Nelson: Commending Tim Hodges of Denton County.

SR 798 - by Nelson: Congratulating Sean Redden of Denton.

SR 800 - by Patterson: Congratulating Christen Rene Crow.

SR 801 - by Patterson: Congratulating Benjamin Isaac Embry.

SR 802 - by Patterson: Congratulating Ralph George Head, Jr.

SR 803 - by Patterson: Congratulating Bryan Wimberley of Brazosport.

SR 804 - by Patterson: Congratulating Anna Grace Davenport.

SR 805 - by Patterson: Congratulating Chandra Christine Travelstead.

SR 806 - by Patterson: Congratulating Carleton Keane Brumbelow II of Brazosport.

SR 807 - by West: Congratulating Triwanna Fisher of Dallas.

SR 808 - by Truan: Welcoming Guadalupe Cassani Cardoso of Mexico City.

HCR 226 - (Lucio): Commending Weslaco's designation as a Main Street City.

HCR 268 - (Cain): Commemorating the unveiling of the Mercer Colony Historical Marker.

ADJOURNMENT

On motion of Senator Truan, the Senate at 6:34 p.m. adjourned until 9:30 a.m. tomorrow.

